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LEGISLATIVE HISTORY

Public Law 85-699
S. 3651

TABLES OF CONTENTS

Index and Summary of S. 3651.....1
Digest of Public Law 85-699.....2

Index and Summary of S. 3651

May 27, 1957	Senator Sparkman, for himself and others, introduced S. 2160 which was referred to the Banking and Currency Committee. Print of bill.
May 29, 1957	Senator Humphrey introduced S. 2185 which was referred to the Senate Banking and Currency Committee. Print of bill.
June 13, 1957	Senator Fulbright introduced S. 2286 which was referred to the Senate Banking and Currency Committee. Print of bill.
Jan. 30, 1958	Senator Johnson introduced S. 3191 which was referred to the Senate Banking and Currency Committee. Print of bill.
April 21, 1958	Senator Thye, for himself and others, introduced S. 3643 which was referred to the Senate Banking and Currency Committee. Print of bill.
April 21, 1958	Senator Johnson, for himself and others, introduced and discussed S. 3651, which was referred to the Senate Banking and Currency Committee. Print of bill.
May 20, 1958	Senate subcommittee ordered S. 3651 reported with amendment.
May 27, 1958	Senate committee ordered S. 3651 reported with amendments.
June 4, 1958	Senate committee reported S. 3651 with amendment. S. Report No. 1652. Print of bill and report.
June 6, 1958	Senator Capehart submitted amendments to S. 3651. Prints of amendments.
June 9, 1958	Senate passed S. 3651 with amendments. Print of bill as passed.
June 10, 1958	S. 3651 was referred to the House Banking and Currency Committee. Print of bill as referred.
June 25, 1958	House committee ordered S. 3651 reported with amendment.
June 30, 1958	House committee reported S. 3751 with amendment. H. Rept. 2060. Print of bill and report.

July 2, 1958	Rules Committee reported resolution for consideration of S. 3651. H. Res. 618, H. Rept. 2115.
July 23, 1958	House passed S. 3651 with amendments.
July 29, 1958	Senate appointed conferees on S. 3651.
July 30, 1958	House appointed conferees on S. 3651.
Aug. 5, 1958	Conferees agreed to file conference report.
Aug. 6, 1958	House received conference report on S. 3651. H. Rept. 2492. Print of report.
Aug. 7, 1958	House agreed to conference report on S. 3651.
Aug. 7, 1958	Senate agreed to conference report on S. 3651. Print of bill as agreed to in conference.
Aug. 21, 1958	Approved: Public Law 85-699.

HEARINGS: Held before a subcommittee of the Senate Banking and Currency Committee on S. 2160, S. 2185, S. 2286, S. 3191, S. 3643, and S. 3651; April and May 1958.

DIGEST OF PUBLIC LAW 85-699

SMALL BUSINESS INVESTMENT ACT OF 1958. Provides for the establishment of a Small Business Investment Division in the Small Business Administration and small business investment companies to provide equity-type capital and long-term credit for small-business concerns. Authorizes not to exceed $250,000,000 of the funds of the Small Business Administration revolving fund for use in carrying out the provisions of this Act. Increases the total authorization for the revolving fund from $650,000,000 to $900,000,000. Authorizes the Small Business Administration to make grants to State governments and various institutions, including land-grant colleges and colleges of agriculture for studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises.

S. 2160

A BILL

85TH CONGRESS
1ST SESSION

S. 2160

IN THE SENATE OF THE UNITED STATES

MAY 27, 1957

Mr. SPARKMAN (for himself, Mr. FULBRIGHT, Mr. CLARK, Mr. HILL, Mr. O'MAHONEY, Mr. KEFAUVER, and Mr. HUMPHREY) introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To make capital more readily available for financing small business and thus to promote, foster, and develop the domestic and foreign commerce of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE

SECTION 1. This Act may be cited as the "National Investment Company Act of 1957."

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress—

(a) to foster the development and growth of independent small-business enterprises with the objective of

1 enabling them to make their maximum contribution to
2 productive investment and employment and to the eco-
3 nomic stability and growth of the Nation;
4 (b) to make capital for such enterprises more
5 readily available in adequate amounts and on reasonable
6 terms;
7 (c) to facilitate maximum participation of private
8 financial institutions and investors in financing these
9 enterprises; and
10 (d) to supplement the existing facilities of banks
11 and other private financial institutions by providing for
12 the establishment of privately owned national investment
13 companies.

14 TITLE I—NATIONAL INVESTMENT COMPANIES

15 ORGANIZATION OF NATIONAL INVESTMENT COMPANIES

16 SEC. 101. (a) National investment companies may be
17 formed for the purpose of operating under this Act by any
18 number of persons not less than five, who shall subscribe
19 to the articles of incorporation of any such company; except
20 that in the case of any company in whose stock one or more
21 Federal Reserve banks invest, the Federal Reserve bank or
22 banks may alone subscribe to the articles of incorporation.
23 The total number of national investment companies formed
24 by Federal Reserve banks pursuant thereto shall not exceed
25 one in each of the several States, the District of Columbia,

1 the several Territories and the several possessions of the
2 United States, and the Commonwealth of Puerto Rico.
3 (b) The articles of incorporation of any national invest-
4 ment company shall specify in general terms the objects for
5 which the company is formed, the name assumed by such
6 company, the area or areas where its operations are to be
7 carried on, the place where its principal office is to be lo-
8 cated, and the amount and classes of its shares of capital
9 stock; and the articles may contain any other provisions not
10 inconsistent with this Act that the company may see fit to
11 adopt for the regulation of its business and the conduct of its
12 affairs, including provision for cumulative voting in election
13 of directors. Such articles and any amendments thereto
14 adopted from time to time shall be subject to the approval
15 of the Board of Governors of the Federal Reserve System
16 (hereinafter called the "Board").
17 (c) The articles of incorporation and amendments
18 thereto shall be forwarded to the Board for consideration and
19 approval or disapproval. In determining whether to ap-
20 prove the establishment of such a company and its proposed
21 articles of incorporation, the Board shall give due regard,
22 among other things, to the need for the financing of inde-
23 pendent small-business enterprises in the area in which the
24 proposed company is to commence business, the general
25 character of the proposed management of the company, the

1 number of such companies previously organized in the
2 United States, and the volume of their operations. After
3 consideration of all relevant factors, the Board may in its
4 discretion approve the articles of incorporation and issue a
5 permit to begin business.

6 (d) Upon issuance of such permit, the company shall
7 become and be a body corporate, and as such, and in the
8 name designated in its articles, shall have power—

9 (1) to adopt and use a corporate seal;

10 (2) to have succession for a period of thirty years,
11 unless extended as provided in section 110 (g), or unless
12 sooner dissolved by the act of the shareholders owning
13 two-thirds of the stock or by an Act of Congress, or
14 unless its franchise becomes forfeited by some violation
15 of law or regulation issued hereunder;

16 (3) to make contracts;

17 (4) to sue and be sued, complain, and defend in
18 any court of law or equity;

19 (5) by its board of directors, to appoint such of-
20 ficers and employees as may be deemed proper, define
21 their authority and duties, fix their compensation, re-
22 quire bonds of such of them as it deems advisable and
23 fix the penalty thereof, dismiss such officers or em-
24 ployees, or any thereof, at pleasure and appoint others
25 to fill their places;

1 (6) to adopt bylaws regulating the manner in which
2 its stock shall be transferred, its officers and employees
3 appointed, its property transferred, and the privileges
4 granted to it by law exercised and enjoyed;
5 (7) to establish branch offices or agencies subject
6 to the approval of the Board;
7 (8) to acquire, hold, operate, and dispose of any
8 property (real, personal, or mixed) whenever necessary
9 or appropriate to the carrying out of its lawful func-
10 tions;
11 (9) to act as depository or fiscal agent of the United
12 States when so designated by the Secretary of the
13 Treasury;
14 (10) to operate in such area or areas as may be
15 specified in its articles of incorporation and approved by
16 the Board; and
17 (11) to exercise the other powers set forth in this
18 Act and such incidental powers as may be reasonably
19 necessary to carry on the business for which the com-
20 pany is established.
21 (e) The board of directors of each national investment
22 company shall consist of nine members all of whom shall be
23 elected annually by the holders of the shares of stock of the
24 company.

1 CONVERSION OF STATE DEVELOPMENT CORPORATIONS

2 SEC. 102. (a) Any State development corporation in-
3 corporated by special law of any State or organized under
4 the general laws of any State may, by the vote of the share-
5 holders owning not less than 51 percent of the capital stock
6 of such corporation, with the approval of the Board, be con-
7 verted into a national investment company under this Act.
8 For a period of six months following enactment of this Act,
9 or for such longer period as the Board may determine, no
10 Federal Reserve bank or banks shall form a national invest-
11 ment company, except by such conversion, in any State,
12 Territory, possession, the Commonwealth of Puerto Rico,
13 or the District of Columbia in which a State development
14 corporation is in being as of the date of enactment of this Act,
15 unless such development corporation shall have stated in
16 writing to the Board that such corporation does not intend
17 to convert into a national investment company as herein
18 provided.

19 (b) In such case the articles of association and organi-
20 zation certificate may be executed by a majority of the
21 directors of the corporation, and the certificate shall declare
22 that the owners of 51 per centum of the capital stock have
23 authorized the directors to make such certificate and to
24 change or convert the corporation into a national investment
25 company. A majority of the directors, after executing the

1 articles of association and the organization certificate, shall
2 have power to execute all other papers and to do whatever
3 may be required to make its organization perfect and com-
4 plete as a national investment company. The shares of any
5 such corporation may continue to be for the same amount
6 each as they were before the conversion, and the directors
7 regardless of number, may continue to be directors of the
8 corporation until the election of the board of directors is held
9 in accordance with section 101 (e).
10 (c) When the Board has given to such corporation a
11 certificate that the provisions of this Act have been complied
12 with, such corporation, and all its stockholders, owners, and
13 employees, shall have the same powers and privileges and
14 shall be subject to the same duties, liabilities, and regula-
15 tions, in all respects, as shall have been prescribed by this
16 Act for corporations originally organized as national invest-
17 ment companies.
18 CAPITAL-STOCK PROVISIONS
19 SEC. 103. (a) Each company organized under this Act
20 shall have a paid-in capital and surplus equal to at least
21 $5,000,000 before it shall commence business. In order to
22 facilitate the formation of national investment companies,
23 each Federal Reserve bank is hereby authorized, notwith-
24 standing any other provisions of law, to invest in the shares
25 of stock of one or more such companies formed by any Fed-

1 eral Reserve bank under section 101 hereof, but with a view
2 to the ultimate disposal of such stock to banks and other pri-
3 vate investors as herein provided. Each Federal Reserve
4 bank which forms a national investment company shall invest
5 in shares of stock of such company in an amount equal to
6 at least $5,000,000, or an amount which, when added to
7 the amounts, if any, of shares subscribed by other Federal
8 Reserve banks, member banks, nonmember banks, financial
9 institutions, corporations, partnerships, or other persons, shall
10 equal the sum of $5,000,000. In no event shall any Federal
11 Reserve bank invest in shares of national investment com-
12 panies if as a result thereof it will hold an amount of such
13 shares aggregating more than 4 percent of the aggregate
14 amount of the combined capital and surplus of all its member
15 banks.

16 (b) The shares of stock in any national investment
17 company shall be eligible for purchase by member banks of
18 the Federal Reserve System, nonmember banks, financial
19 institutions, corporations, partnerships, or other persons.
20 Each member bank is hereby authorized, notwithstanding
21 any other provision of Federal law, to acquire and hold an
22 amount of such shares equal to not more than 4 percent of
23 the capital and surplus of member bank. Upon the demand
24 of any such eligible purchaser, a Federal Reserve bank
25 which holds shares of stock in a national investment company

1 shall, with the approval of the Board, including approval as
2 to price, sell to such eligible purchaser all or a portion of
3 such shares.

4 (c) The aggregate amount of shares in any such com-
5 pany or companies which may be owned or controlled by
6 any stockholder, or by any group or class of stockholders,
7 may be limited by the Board; and no one stockholder, other
8 than a Federal Reserve bank, shall at any time, without
9 the approval of the Board, own or control more than 10
10 percent of the total outstanding shares of any such company.

11 BORROWING POWER

12 SEC. 104. Each national investment company shall have
13 authority to borrow money and to issue its debentures, bonds,
14 promissory notes, or other obligations under such general
15 conditions and subject to such limitations and regulations as
16 the Board may prescribe.

17 ELIGIBLE ENTERPRISES

18 SEC. 105. The Board, after consultation with the Secre-
19 tary of Commerce, shall promulgate standards to determine
20 the eligibility of business enterprises for the purposes of this
21 Act. In promulgating such standards, which may differ
22 according to the types of financing or other relevant factors,
23 the Board shall give consideration to—

24 (a) the policies set forth in section 2; and

1 (b) the extent to which such enterprises have rea-
2 sonable access to facilities for credit and equity financing.

3 LOANS AND INVESTMENTS

4 SEC. 106. (a) Each national investment company shall
5 have authority to make or acquire loans with or without
6 security to business enterprises which are eligible under this
7 Act, or to purchase obligations of such enterprises. Such
8 loans, purchases, or other acquisitions may be made either
9 directly or in cooperation with banks or other lending institu-
10 tions, through agreements to participate or by the purchase
11 of participations, commitments to purchase, or otherwise, as
12 the company may determine.

13 (b) Each national investment company shall have au-
14 thority to acquire, and to resell to the issuer or to others.
15 the income debentures or bonds, common or preferred stocks.
16 or other capital shares of business enterprises eligible under
17 this Act.

18 AGGREGATE LIMITATIONS

19 SEC. 107. Without the approval of the Board, the aggre-
20 gate amount of obligations and securities acquired and
21 for which commitments may be issued by any national in-
22 vestment company under the provisions of this Act which
23 exceed the sum of $1,000,000 for any single enterprise shall

1 not exceed 33⅓ percent of the combined capital and surplus
2 and maximum indebtedness of such national investment com-
3 pany authorized by this Act.

4 EXEMPTIONS

5 SEC. 108. (a) The loans of any national banking asso-
6 ciation which are required by any national investment com-
7 pany, in the making of which such company participates,
8 or for any part of which a commitment to purchase is issued
9 hereunder shall not be subject to the limitations on real-
10 estate loans prescribed in section 24 of the Federal Reserve
11 Act, as amended (12 U. S. C. 371).

12 (b) Section 3 of the Securities Act of 1933, as amended
13 (15 U. S. C. 77 C), is hereby amended by inserting at the
14 end thereof the following new subsection (c):

15 "(c) The Commission may from time to time by its
16 rules and regulations, and subject to such terms and condi-
17 tions as may be prescribed therein, add to the securities
18 exempted as provided in this section any class of securities
19 issued by a national investment company under the National
20 Investment Company Act of 1957, if it finds, having regard
21 to the purposes of that Act, that the enforcement of this
22 Act with respect to such securities is not necessary in the
23 public interest and for the protection of investors."

1 (c) Section 304 of the Trust Indenture Act of 1939
2 (15 U. S. C. 77 ddd) is hereby amended by adding the
3 following subsection (e):
4 "(e) The Commission may from time to time by its
5 rules and regulations, and subject to such terms and condi-
6 tions as may be prescribed therein, add to the securities
7 exempted as provided in this section any class of securities
8 issued by a national investment company under the National
9 Investment Company Act of 1957, if it finds, having regard
10 to the purposes of that Act, that the enforcement of this
11 Act with respect to such securities is not necessary in the
12 public interest and for the protection of investors."

13 TAX PROVISIONS

14 SEC. 109. (a) Section 851 (a) (1) of the Internal
15 Revenue Code of 1954 is amended by inserting before the
16 word "registered" the following: "chartered under the Na-
17 tional Investment Company Act of 1957 as a national invest-
18 ment company or is".
19 (b) Section 851 (b) (2) of the Internal Revenue
20 Code of 1954 is amended by inserting immediately after
21 the words "90 percent" the following: "(75 percent in the
22 case of a national investment company chartered under the
23 National Investment Company Act of 1957)".
24 (c) Section 851 of the Internal Revenue Code of 1954

1 is amended by adding at the end thereof a new subsection as
2 follows:
3 "(f) EXEMPTION OF NATIONAL INVESTMENT COM-
4 PANIES FROM LIMITATIONS OF SUBSECTION (b) (4).—
5 If the Board of Governors of the Federal Reserve System
6 determines that it is necessary and appropriate to accom-
7 plishment of the purposes of the National Investment Com-
8 pany Act of 1957 that any national investment company
9 chartered under such Act be exempt from the requirements
10 of this subsection (b) (4), it shall certify such determina-
11 tion to the Secretary or his delegate and, in such event,
12 the limitations prescribed in subsection (b) (4) shall not
13 apply to such national investment company."
14 (d) (1) Section 852 (a) of the Internal Revenue Code
15 of 1954 is amended by adding at the end thereof the follow-
16 ing: "The investment company taxable income of a regu-
17 lated investment company which is a national investment
18 company chartered under the National Investment Company
19 Act of 1957 shall, for purposes of paragraph (1), be in-
20 creased by the amounts described in subsection (d) (3)
21 (D) and decreased by the amounts described in subsection
22 (d) (5) (B)."
23 (2) Section 852 of the Internal Revenue Code of 1954

1 is amended by adding at the end thereof a new subsection
2 as follows:
3 "(d) NATIONAL INVESTMENT COMPANY RESERVE.—
4 "(1) RESERVE GENERALLY.—A regulated invest-
5 ment company which is a national investment company
6 chartered under the National Investment Company Act
7 of 1957 may, under regulations prescribed by the Secre-
8 tary or his delegate establish and maintain a reserve sub-
9 ject to the limitations provided in this subsection.
10 "(2) LIMITATION ON RESERVE.—The amount of
11 the reserve shall not at any time exceed the lesser of—
12 "(A) 50 percent of the invested capital of the
13 company as defined in paragraph (7), or
14 "(B) the accumulated earnings and profits de-
15 termined as of the close of the taxable year.
16 "(3) CHARGES TO RESERVE.—The reserve shall be
17 charged as of the end of the taxable year (whether or
18 not such charge produces a minus amount in the reserve)
19 with the following:
20 "(A) the net capital loss for the taxable year
21 (as defined in section 1222 (10));
22 "(B) the net operating loss for the taxable
23 year (as defined in section 172 (c));
24 "(C) the Federal income taxes attributable

1 to the amount added to the reserve under paragraph
2 (5); and
3 "(D) such amount as may be necessary by
4 reason of the limitation provided in paragraph (2).
5 "(4) MANDATORY ADDITIONS TO THE RESERVE.—
6 There shall be added to the reserve as of the close of
7 the taxable year the following:
8 "(A) an amount equal to the excess of the net
9 capital gain for the taxable year computed without
10 regard to section 1212 (relating to capital loss
11 carry-over) over the net capital gain for the taxable
12 year; and
13 "(B) an amount equal to the excess of the
14 taxable income for the taxable year computed
15 without regard to section 172 (relating to the net
16 operating loss deduction) over the taxable income
17 for the taxable year.
18 "(5) DISCRETIONARY ADDITION TO THE RE-
19 SERVE.—In any year in which an amount (other than
20 the amount described in paragraph (4)) is added to the
21 reserve; the company shall, in the computation of its
22 investment company taxable income be allowed—
23 "(A) a deduction equal to such amount of the
24 addition to the reserve as does not cause the aggre-

1 gate amount of the reserve (including such addition)
2 to exceed 20 percent of the invested capital of the
3 company as defined in paragraph (7); and
4 "(B) the dividends received credit provided in
5 section 243 but such credit shall not exceed 85
6 percent of the portion of amounts added to the
7 reserve under this subparagraph which is not de-
8 ductible from investment company taxable income
9 under subparagraph (A).
10 "(6) REDUCTION OF TERMINATION OF RESERVE.—
11 In the event of a reduction or termination of the reserve
12 in connection with a partial or complete liquidation of
13 the company (or of any company to which the reserve
14 has been transferred in an exchange upon which gain
15 was not recognized by reason of any provision of this
16 subtitle) the gain realized by a stockholder upon any
17 such liquidation shall, to the extent of the pro rata
18 share of the reserve, be considered as a gain from the
19 sale or exchange of property held for less than six
20 months.
21 "(7) INVESTED CAPITAL.—For purposes of para-
22 graph (2), the term 'invested capital' means the sum,
23 determined as of the close of the taxable year, of—
24 "(A) the amount of money or property (in-
25 cluded in an amount equal to its unadjusted basis

1 without regard to the value of the property as of
2 March 1, 1913, except that if such basis is a substi-
3 tuted basis, it shall be adjusted, with respect to the
4 period before the property was paid in, by an
5 amount equal to adjustments proper under section
6 312 (f) for determining earnings and profits) pre-
7 viously paid in for stock, or as paid-in surplus or
8 as a contribution to capital, reduced by the amount
9 of distributions not out of earnings and profits in
10 the year of distribution and not out of accumulated
11 earnings and profits; and
12 "(B) the amount of the outstanding indebted-
13 ness (not including interest) of the company which
14 is evidenced by a bond, note, bill of exchange, de-
15 benture, certificate of indebtedness, mortgage, or
16 deed of trust, except that indebtedness not repre-
17 sented by a bond or debenture shall not be included
18 in excess of an amount equal to the average daily
19 amount of indebtedness not so represented which
20 was outstanding during the taxable year."
21 (e) Each national investment company established un-
22 der this Act, including its franchise, capital, reserves, and
23 surplus, its income, its real property, its tangible and in-
24 tangible personal property, its obligations (both as in princi-
25 pal and income derived therefrom), shall be subject to taxa-

1 tion, in the same manner and to the same extent as a State-
2 chartered institution of similar character by any State,
3 county, municipality, or local taxing authority or by any
4 Territory, dependency, or possession of the United States;
5 and its real property shall be subject to special assessments
6 for local improvements.

7 MISCELLANEOUS

8 SEC. 110. (a) Wherever practicable the operations of a
9 national investment company shall be undertaken in coop-
10 eration with banks or other financial institutions, and any
11 servicing or initial investigation required for loans or acquisi-
12 tions of securities by the company under the provisions of
13 this Act may be handled through such banks or other finan-
14 cial institutions on a fee basis.

15 (b) Each national investment company may make use,
16 wherever practicable, of the advisory services of the Federal
17 Reserve System and of the Department of Commerce which
18 are available for and useful to industrial and commercial busi-
19 nesses, and may provide consulting and advisory services
20 on a fee basis and have on its staff persons competent to pro-
21 vide such services. Subject to the supervision and direction
22 of the Board, any Federal Reserve bank is authorized to act
23 as a depository or fiscal agent for any company organized
24 under this Act. Such companies may invest funds not rea-
25 sonably needed for their current operations in direct obliga-

1 tions of, or obligations guaranteed as to principal and interest
2 by the United States.
3 (c) The Board is authorized to prescribe regulations
4 governing the operations of national investment companies
5 and to carry out the provisions of this Act in accordance
6 with the purposes of this Act. Each national investment
7 company shall be subject to examinations made by direction
8 of the Board by examiners selected or approved by the
9 Board, and the cost of such examinations, including the com-
10 pensation of the examiners, may in the discretion of the
11 Board be assessed against the company examined and when
12 so assessed shall be paid by such company. Every such com-
13 pany shall make such reports to the Board at such times and
14 in such form as the Board may require.
15 (d) The Secretary of Commerce is authorized to advise
16 and assist in promoting national investment companies.
17 (e) Should any national investment company violate
18 or fail to comply with any of the provisions of this Act or
19 of regulations prescribed hereunder, all of its rights, privi-
20 leges, and franchises derived herefrom may thereby be for-
21 feited. Before any such company shall be declared
22 dissolved, or its rights, privileges, and franchises forfeited,
23 any noncompliance with or violation of this Act shall, how-
24 ever, be determined and adjudged by a court of the United
25 States of competent jurisdiction in a suit brought for that

1 purpose in the district or territory in which the principal
2 office of such company is located, which suit shall be brought
3 by the United States at the instance of the Board or the
4 Attorney General.

5 (f) Whenever in the judgment of the Board any person
6 has engaged or is about to engage in any acts or practices
7 which constitute or will constitute a violation of any provision
8 of this Act or of any regulation thereunder, the Board may
9 make application to the proper district court of the United
10 States, or the United States courts of any Territory or other
11 place subject to the jurisdiction of the United States, for an
12 order enjoining such acts or practices, or for an order en-
13 forcing compliance with such provision, and such courts
14 shall have jurisdiction of such actions and upon a showing
15 by the Board that such person has engaged or is about to
16 engage in any such acts or practices a permanent or tem-
17 porary injunction, restraining order, or other order shall be
18 granted without bond.

19 (g) Any national investment company may at any time
20 within the two years next previous to the date of the ex-
21 piration of its corporate existence, by a vote of the share-
22 holders owning two-thirds of its stock, apply to the Board
23 for approval to extend the period of its corporate existence
24 for a term of not more than thirty years, and upon approval
25 of the Board as provided in section 101 hereof such com-

1 pany shall have its corporate existence extended for such
2 period unless sooner dissolved by the act of the shareholders
3 owning two-thirds of its stock, or by an Act of Congress or
4 unless its franchise becomes forfeited as herein provided.

5 (h) Nothing in this Act or in any other provision of
6 law shall be deemed to impose any liability on the United
7 States or on any Federal Reserve bank with respect to any
8 obligations entered into, or stocks issued, or commitments
9 made, by any company organized under this Act.

10 TITLE II—CHANGES IN FEDERAL RESERVE 11 AUTHORITY

12 REPEAL OF SECTION 13B OF THE FEDERAL RESERVE ACT

13 SEC. 201. Effective one year after the date of enactment
14 of this Act, section 13b of the Federal Reserve Act (12
15 U. S. C. 352a) is hereby repealed; but such repeal shall
16 not affect the power of any Federal Reserve bank to carry
17 out, or protect its interest under, under agreement thereto-
18 fore made or transaction entered into in carrying on opera-
19 tions under that section.

20 RETURN OF FUNDS TO TREASURY

21 SEC. 202. (a) Within sixty days after the enactment
22 of this Act, each Federal Reserve bank shall pay to the
23 United States the aggregate amount which the Secretary of
24 the Treasury has heretofore paid to such bank under the
25 provisions of section 13b of the Federal Reserve Act; and

1 such payment shall constitute a full discharge of any obliga-
2 tion or liability of the Federal bank to the United States or
3 to the Secretary of the Treasury arising out of subsection
4 (e) of said section 13b or out of any agreement thereunder.
5 (b) The amounts repaid to the United States pursuant
6 to section 202, and any remaining balance of the funds set
7 aside in the Treasury for payments under section 13b of
8 the Federal Reserve Act shall be covered into miscellaneous
9 receipts.

10 AUTHORITY TO SELL ASSETS TO NATIONAL INVESTMENT
11 COMPANIES

12 SEC. 203. Any national investment company organized
13 under this Act may purchase from any Federal Reserve
14 bank, and any Federal Reserve bank is authorized to sell to
15 any such company, at such reasonable price as may be
16 agreed upon, any or all of the assets heretofore or hereafter
17 acquired by such Reserve bank under the provisions of sec-
18 tion 13b of the Federal Reserve Act.

19 TITLE III—MISCELLANEOUS PROVISIONS

20 PENALTIES

21 SEC. 301. Title 18, United States Code, section 1014,
22 is amended by inserting the phrase "a national investment
23 company organized under the National Investment Com-
24 pany Act of 1957," after the words "National farm loan
25 association,".

1 GEOGRAPHIC APPLICABILITY

2 SEC. 302. The authority provided in this Act shall be
3 applicable in the United States, including the District of
4 Columbia and the Territories and possessions.

5 RIGHT TO AMEND THIS ACT

6 SEC. 303. The right to amend, alter, or repeal this Act
7 is hereby expressly reserved.

85TH CONGRESS
1ST SESSION

S. 2160

A BILL

To make capital more readily available for financing small business and thus to promote, foster, and develop the domestic and foreign commerce of the United States, and for other purposes.

By Mr. SPARKMAN, Mr. FULBRIGHT, Mr. CLARK, Mr. HILL, Mr. O'MAHONEY, Mr. KEFAUVER, and Mr. HUMPHREY

MAY 27, 1957

Read twice and referred to the Committee on Banking and Currency

S. 2185

IN THE SENATE OF THE UNITED STATES

A BILL

85TH CONGRESS
1ST SESSION

S. 2185

IN THE SENATE OF THE UNITED STATES

MAY 29, 1957

Mr. HUMPHREY introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To amend the Small Business Act of 1953 to authorize the Small Business Administration to make loans to local private nonprofit organizations formed to assist, develop, and expand the economy of the area.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 207 of the Small Business Act of 1953, as
4 amended, is hereby amended by adding the following new
5 subsection:
6 "(c) The Administration is empowered to make loans
7 (either directly or in cooperation with banks or other lend-
8 ing institutions through agreements to participate on an im-
9 mediate or deferred basis) to local private nonprofit organi-

1 zations (including industrial foundations, development credit
2 corporations or similar groups) formed to assist, develop,
3 and expand the economy of the area: *Provided, however,*
4 That all such loans shall be of such sound value or so secured
5 as reasonably to assure repayment: *And provided further,*
6 That no such loans including renewals and extensions thereof
7 may be made for a period or periods exceeding twenty
8 years."

85TH CONGRESS
1ST SESSION

S. 2185

A BILL

To amend the Small Business Act of 1953 to authorize the Small Business Administration to make loans to local private nonprofit organizations formed to assist, develop, and expand the economy of the area.

By Mr. HUMPHREY

MAY 29, 1957

Read twice and referred to the Committee on Banking and Currency

S. 2286

A BILL

85TH CONGRESS
1ST SESSION

S. 2286

IN THE SENATE OF THE UNITED STATES

JUNE 13, 1957

Mr. FULBRIGHT introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To assist State programs for small business, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 207 of the Small Business Act of 1953, as
4 amended, is hereby amended by adding the following new
5 subsections:
6 "(c) The Administration is empowered to purchase
7 investment securities issued by State chartered development
8 credit or finance corporations formed to assist, develop, and
9 expand the economy of a State. The Administration shall
10 not purchase investment securities in an amount in excess
11 of the amount of such securities which are held by purchasers

1 other than the Administration, but in no event shall the
2 Administration purchase more than $5,000,000 of invest-
3 ment securities in any one State. Investment securities pur-
4 chased by the Administration shall bear interest at a rate
5 not less than the total of one-quarter of 1 per centum per
6 annum added to the rate of interest paid by the Administra-
7 tion on funds obtained from the Secretary of the Treasury
8 as provided in subsection (d) of this section, and shall have
9 maturity dates of twenty years or less. The term 'invest-
10 ment securities' as used in this subsection shall mean obliga-
11 tions evidencing the indebtedness of any State chartered
12 development credit or finance corporation in the form of
13 bonds, notes, and/or debentures as may be further defined
14 by regulations of the Administration.
15 "(d) In order to finance activities under subsection (c)
16 of this section, the Administration is authorized and em-
17 powered to issue to the Secretary of the Treasury, from time
18 to time and to have outstanding at any one time, notes and
19 other obligations in an amount not exceeding $27,500,000.
20 Such obligations shall be in such forms and denominations,
21 have such maturities and be subject to such terms and con-
22 ditions as may be prescribed by the Administration, with
23 the approval of the Secretary of the Treasury. Such notes
24 or other obligations shall bear interest at a rate determined
25 by the Secretary of the Treasury, taking into consideration

1 the current average rate on outstanding marketable obliga-
2 tions of the United States of comparable maturities as of the
3 last day of the month preceding the issuance of such notes
4 or other obligations. The Secretary of the Treasury is
5 authorized and directed to purchase any notes and other
6 obligations of the Administration to be issued hereunder,
7 and for such purpose the Secretary of the Treasury is author-
8 ized to use as a public debt transaction the proceeds from the
9 sale of any securities issued under the Second Liberty Bond
10 Act, as amended, and the purposes for which securities may
11 be issued under such Act, as amended, are extended to in-
12 clude any purchases of such notes and obligations. The
13 Secretary of the Treasury may at any time sell any of the
14 notes or other obligations acquired by him under this section.
15 All redemptions, purchases, and sales by the Secretary of
16 the Treasury of such notes or other obligations shall be
17 treated as public debt transactions of the United States.
18 Funds borrowed under this section and any proceeds shall
19 constitute a revolving fund which may be used by the Ad-
20 ministration in the exercise of its functions under subsection
21 (c) of this section."
22 SEC. 2. Effective one year after the date of enactment
23 of this Act, section 13b of the Federal Reserve Act (12
24 U. S. C. 352a) is hereby repealed; but such repeal shall not
25 affect the power of any Federal Reserve bank to carry out,

1 or protect its interest under, any agreement theretofore
2 made or transaction entered into in carrying on operations
3 under that section. Within sixty days after the enactment
4 of this Act, each Federal Reserve bank shall pay to the
5 United States the aggregate amount which the Secretary of
6 the Treasury has heretofore paid to such bank under the
7 provisions of section 13b of the Federal Reserve Act; and
8 such payment shall constitute a full discharge of any obli-
9 gation or liability of the Federal bank to the United States
10 or to the Secretary of the Treasury arising out of subsection
11 (e) of said section 13b or out of any agreement thereunder.
12 The amounts repaid to the United States pursuant to this
13 section and any remaining balance of the funds set aside in
14 the Treasury for payments under section 13b of the Federal
15 Reserve Act shall be covered into miscellaneous receipts.
16 SEC. 3. Subsection (b) of section 207 of the Small
17 Business Act of 1953, as amended, is amended by adding
18 the following new subparagraph:
19 "(6) to make grants to any State government, or any
20 agency thereof, State chartered development credit or finance
21 corporations, land-grant colleges and universities, and col-
22 leges and schools of business, engineering, commerce, or
23 agriculture for studies, research, and counseling concerning
24 the managing, financing, and operation of small business
25 enterprises and technical and statistical information necessary

1 thereto in order to carry out the purposes of subparagraph
2 4 of this section by coordinating such information with exist-
3 ing information facilities within the State and by making
4 such information available to State and local agencies. Only
5 one such grant shall be made within any one State in any
6 one year, and no such grant shall exceed an aggregate
7 amount of $40,000. Not to exceed $2,000,000 annually
8 shall be made available from the revolving fund provided in
9 section 204 (b) of this Act for the purposes of this
10 subparagraph."

85TH CONGRESS
1ST SESSION

S. 2286

A BILL

To assist State programs for small business, and for other purposes.

By Mr. FULBRIGHT

JUNE 13, 1957

Read twice and referred to the Committee on Banking and Currency

S. 3191

A BILL

85TH CONGRESS
2D SESSION

S. 3191

IN THE SENATE OF THE UNITED STATES

JANUARY 30 (legislative day, JANUARY 27), 1958

Mr. JOHNSON of Texas introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To create a Small Business Capital Bank System to make available to small business a source of equity and long-term loan capital where such capital is not available on reasonable terms from existing private sources; to transfer to such system all funds which are presently available under section 13b of the Federal Reserve Act for loans to industrial and commercial firms, together with certain other funds out of the surplus accounts of the Federal Reserve banks; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Capital Bank Act".

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of purpose.
Sec. 103. Definitions.

TITLE II—ESTABLISHMENT OF SMALL BUSINESS CAPITAL BANK BOARD

Sec. 201. Establishment of the Board.
Sec. 202. Membership.
Sec. 203. Executive Director.
Sec. 204. Seal.
Sec. 205. Provision of funds.
Sec. 206. Regulations.

TITLE III—ORGANIZATION OF SMALL BUSINESS CAPITAL BANKS

Sec. 301. Establishment of banks.
Sec. 302. Temporary management.
Sec. 303. Election of directors.
Sec. 304. Capitalization.
Sec. 305. Borrowing power.
Sec. 306. Use of banks' funds.
Sec. 307. Examination and reports.

TITLE IV—ORGANIZATION OF SMALL BUSINESS INVESTMENT ASSOCIATIONS

Sec. 401. Organization of associations.
Sec. 402. Objectives.
Sec. 403. Articles of incorporation.
Sec. 404. Board of directors.
Sec. 405. Secretary-treasurer.
Sec. 406. Payment of expenses and salaries.
Sec. 407. Capital stock.
Sec. 408. Borrowing power.
Sec. 409. Investment by associations in stock of banks.
Sec. 410. Use of services of public agencies and private financial institutions.

TABLE OF CONTENTS—Continued

TITLE IV—ORGANIZATION OF SMALL BUSINESS INVESTMENT ASSOCIATIONS—Continued

Sec. 411. Disposition of funds held by associations.
Sec. 412. Examinations.
Sec. 413. Reports.
Sec. 414. Dissolution.
Sec. 415. Disclaimer of United States liability on association obligations and securities.
Sec. 416. Exemptions for association securities.
Sec. 417. Liability of associations for Federal income tax.
Sec. 418. State and local taxation of associations.

TITLE V—PROVISION OF ASSISTANCE TO SMALL-BUSINESS CONCERNS

Sec. 501. Standards of eligibility for assistance.
Sec. 502. Provision of equity capital for small-business concerns.
Sec. 503. Long-term loans to small-business concerns.
Sec. 504. Assistance through private investment companies and State and local development corporations.

TITLE VI—MISCELLANEOUS

Sec. 601. Criminal penalties.
Sec. 602. Injunctive relief.

1 STATEMENT OF PURPOSE

2 SEC. 102. (a) The Congress hereby finds that there
3 is an increasing need among the small-business concerns of
4 the United States for funds to finance their operations and
5 to promote and facilitate their growth, expansion, and
6 modernization; that this need must be met in the interest
7 of a sound national economy; and that the loans which are
8 presently available to small-business concerns from the Fed-
9 eral Government and from other public and private sources
10 not only fail to meet this need but in fact, because of the

1 burden of repayment over a relatively short period of time,
2 frequently prevent such growth and expansion.
3 (b) It is therefore declared to be the policy of the
4 Congress and the purpose of this Act to improve and stimulate
5 the national economy in general and the small-business seg-
6 ment thereof in particular by establishing a program under
7 which small-business concerns in the United States can be
8 supplied with the equity capital and long-term loan funds
9 which they need for the sound financing of their business
10 operations and for their growth, expansion, and moderniza-
11 tion.

12 DEFINITIONS

13 SEC. 103. (a) As used in this Act—
14 (1) the term "Board" means the Small Business
15 Capital Bank Board established by section 201;
16 (2) the term "bank" means a small business capital
17 bank established under section 301;
18 (3) the term "association" means a small business
19 investment association organized as provided in section
20 401;
21 (4) the terms "district" and "small business capital
22 bank district" mean a geographical area coextensive
23 with one of the twelve Federal Reserve districts created
24 under section 2 of the Federal Reserve Act and existing
25 on the date of the enactment of this Act, except that the

1 boundaries of such districts may from time to time be
2 readjusted by the Board after the date of the enactment
3 of this Act to take into account more effectively the
4 small-business needs of the country;

5 (5) the term "trading area" means a business com-
6 munity embracing an entire metropolitan area (as de-
7 fined by the Board), or a geographical area embracing
8 a number of municipalities when such a designation is
9 determined by the Board to be necessary and appro-
10 priate in order to include all of an integrated business
11 and commercial community; and

12 (6) the terms "State" and (when used in a geo-
13 graphical sense) "United States" include the several
14 States, the Territories of Alaska and Hawaii, the Dis-
15 trict of Columbia, and the Commonwealth of Puerto
16 Rico.

17 (b) (1) As used in this Act, the term "small-business
18 concern" means a business concern, incorporated or unincor-
19 porated, which is not dominant in a well-established industry
20 or line of business, and which meets the more detailed stand-
21 ards and criteria prescribed by the Board under paragraph
22 (2).

23 (2) As soon as practicable after the date of the enact-
24 ment of this Act, the Board shall prescribe detailed standards
25 and criteria for the definition of the term "small-business

1 concern", which standards and criteria may be based upon,
2 but shall not be limited to, such things as number of em-
3 ployees, assets, volume of sales, and other factors related to
4 the concern's relative position in its industry or line of
5 business.

6 (3) The Board shall from time to time revise such
7 standards and criteria to the extent necessary to take into
8 account more accurately and realistically the relationship
9 of small-business operations to the economy as a whole.
10 Whenever such standards and criteria have been prescribed
11 or revised with respect to any industry or line of business,
12 the definition shall be published in the Federal Register,
13 and for purposes of this Act shall thereafter remain in effect
14 with respect to such industry or line of business until sub-
15 sequently revised and published by the Board in accordance
16 with the same standards and procedures as those which
17 were applicable when it was originally prescribed.

18 TITLE II—ESTABLISHMENT OF SMALL BUSINESS
19 CAPITAL BANK BOARD

20 ESTABLISHMENT OF THE BOARD

21 SEC. 201. There is hereby established, as an independ-
22 ent agency of the Government of the United States, a Small
23 Business Capital Bank Board. The principal office of the
24 Board shall be located in the District of Columbia, but the

1 Board may establish such district and branch offices through-
2 out the United States as it deems necessary and appropriate.

3 MEMBERSHIP

4 SEC. 202. (a) The Board shall consist of thirteen
5 members appointed by the President by and with the advice
6 and consent of the Senate, one member from each of the
7 twelve small business capital bank districts and one member
8 at large. In making such appointments, the President shall
9 have due regard to a fair representation of the public interest
10 as well as of the particular interests and needs of small busi-
11 ness and the special contributions which can be made by
12 small-business concerns to the sound development of the
13 national economy, and shall give particular consideration
14 to persons who are experienced in small business and are
15 familiar with its financing and other problems; and before
16 appointing any member from one of such twelve districts
17 (other than the first member so appointed) the President
18 shall receive and consider any nominations for such appoint-
19 ment which may be submitted by small business investment
20 associations in the district involved.

21 (b) Each member of the Board shall be appointed for
22 a term of fourteen years; except that (1) of the twelve
23 members first appointed from the small business capital bank
24 districts, three shall be appointed for terms of three years,

1 three for terms of seven years, three for terms of ten years,
2 and three for terms of fourteen years, as designated by the
3 President at the time of appointment, and (2) any member
4 appointed to fill a vacancy shall be appointed only for the
5 unexpired portion of his predecessor's term.

6 (c) Each member of the Board shall be a citizen of
7 the United States and (except in the case of the member
8 appointed at large) shall have been a resident of the district
9 from which he is appointed for not less than ten years next
10 preceding his appointment. No person shall be eligible for
11 appointment as a member of the Board if, at the time his
12 term of office would begin or within the one-year period
13 next preceding such time, he shall have been a director or
14 salaried officer or employee of a small business capital bank
15 or small business investment association. The members of
16 the Board shall devote their entire time to the business of
17 the Board and shall not engage in any other occupation or
18 work during their terms of office.

19 (d) The annual rate of basic compensation of each
20 member of the Board shall be $20,000.

21 (e) Each member of the Board, in addition to receiving
22 compensation as provided in subsection (d), shall be reim-
23 bursed for necessary travel, subsistence, and other expenses
24 actually incurred in the discharge of his duties as such

1 member, without regard to any other laws relating to allow-
2 ances for such expenses.
3 (f) As soon as practicable after the first members of
4 the Board have been appointed as provided in subsection
5 (a), the members shall meet, subscribe to the oath of office,
6 and organize by electing from among the membership a
7 Chairman and a Vice Chairman and by appointing (from
8 within or without its membership) a Secretary. The Chair-
9 man, Vice Chairman, and Secretary shall be elected an-
10 nually for terms of one year, and shall serve until their
11 respective successors are elected and take office. The Chair-
12 man shall preside at all meetings and the Vice Chairman
13 shall preside in the absence or disability of the Chairman.
14 The Board may, in the absence or disability of both the
15 Chairman and Vice Chairman, elect any of its members to
16 act as chairman pro tempore. Seven members shall con-
17 stitute a quorum of the Board for the transaction of business,
18 and the Board may function notwithstanding vacancies pro-
19 vided a quorum is present. The Board shall meet at such
20 times and places as it may fix and determine, but shall hold
21 at least twelve regularly scheduled meetings a year; and
22 special meetings may be held on call of the Chairman or
23 any three members.

1 (g) Notwithstanding subsection (b), any member of
2 the Board may at any time be removed from office for cause
3 by the President or, if cause exists but the President does
4 not act, by the Congress through impeachment proceedings.
5 (h) The Board shall adopt such rules as it may see fit
6 for the transaction of its business, and shall keep permanent
7 and complete records of its acts and proceedings.

8 EXECUTIVE DIRECTOR

9 SEC. 203. (a) The Board shall appoint an Executive
10 Director, who shall serve at the pleasure of the Board and
11 shall, subject to the general supervision and direction of the
12 Board as to matters of a broad and general supervisory,
13 advisory, or policy nature, and, except as otherwise specifi-
14 cally provided in this Act, be responsible for the execution
15 of the functions of the Board.
16 (b) The Board shall fix the compensation of the Exec-
17 utive Director, but his annual rate of basic compensation
18 shall not exceed $17,500. In addition to receiving such
19 compensation, the Executive Director shall be reimbursed
20 for necessary traveling and subsistence expenses, or paid a
21 per diem allowance in lieu thereof within the limitations
22 prescribed by law, while away from his official station upon
23 official business.
24 (c) The Executive Director shall comply with all orders
25 and directions which he receives from the Board; but as to

1 all third persons his acts shall be presumed to be in com-
2 pliance with the orders and directions of the Board.
3 (d) The Executive Director shall appoint such officers,
4 employees, and other personnel (including attorneys, econ-
5 omists, accountants, experts, assistants, clerks, and laborers)
6 as may be necessary to carry out the functions, powers, and
7 duties vested in the Board, and fix their compensation, in
8 accordance with the civil-service laws and regulations and
9 the Classification Act of 1949. All functions, powers, and
10 duties of the Board, except those specifically reserved to the
11 Board itself by this Act, shall be exercised and performed by
12 the Executive Director and may be exercised and performed
13 by him through such officers, employees, or other personnel
14 of the Board as he may designate.

15 SEAL

16 SEC. 204. The Board shall have an official seal, which
17 shall be judicially noticed.

18 PROVISION OF FUNDS

19 SEC. 205. (a) The funds required for the operating
20 expenses of the Board, and for its investment in the capital
21 stock of the twelve small business capital banks under section
22 304 (a), shall be obtained as provided in this section.
23 (b) (1) Within ninety days after the enactment of this
24 Act, there shall be transferred to the Board from the existing
25 accounts of the twelve Federal Reserve banks, under the

1 direction of the Board of Governors of the Federal Reserve
2 System, all funds heretofore authorized for loans to industrial
3 and commercial firms under section 13b of the Federal Re-
4 serve Act and not loaned or otherwise committed for that
5 purpose, together with all the existing rights and liabilities
6 of the Federal Reserve banks with respect to loans under
7 such section 13b which are outstanding or with respect to
8 which commitments have been issued, including the right to
9 collect or receive (and to use as provided in subsection (a)
10 of this section) any repayments of such loans which may
11 hereafter become due. Effective ninety days after the date
12 of the enactment of this Act, section 13b of the Federal Re-
13 serve Act is repealed; but such repeal shall not affect the
14 power of the Board to carry out, or protect its interest under,
15 any agreement or transaction, theretofore made or entered
16 into under such section, with respect to which rights and
17 liabilities are transferred to the Board under this paragraph.
18 (2) Within ninety days after the date of the enactment
19 of this Act, there shall be transferred to the Board from the
20 existing surplus accounts of the twelve Federal Reserve
21 banks, under the direction of the Board of Governors of the
22 Federal Reserve System, the sum of $120,000,000. The
23 amount which shall be transferred from the surplus account
24 of any Federal Reserve bank under this subsection shall bear
25 the same ratio to $120,000,000 as the surplus account of

1 that bank bears (on the date of the enactment of this
2 Act) to the total of the surplus accounts of all twelve
3 Federal Reserve banks.

4 (c) Whenever the Board's investment in the capital
5 stock of any small business capital bank is retired as provided
6 in section 304 (b), the proceeds from the retirement of such
7 stock shall be paid over by the Board to the Treasury of the
8 United States as miscellaneous receipts.

9 (d) In order to secure funds to be used in purchasing
10 debenture bonds of banks as provided in section 305, the
11 Board is authorized to issue and have outstanding obligations
12 having such maturities and bearing such rate or rates of in-
13 terest as may be determined by the Board with the approval
14 of the Secretary of the Treasury, to be redeemable at the
15 option of the Board at or before maturity in such manner
16 as may be stipulated in such obligations; but the aggregate
17 amount of such obligations which may be outstanding at any
18 one time shall not exceed $1,200,000,000. Such obligations
19 shall be sold only to private investors, and the proceeds
20 therefrom shall be used only for the purchase of debenture
21 bonds of banks as provided in section 305. The Board shall
22 insert appropriate language in each such obligation clearly
23 indicating that neither it nor the interest thereon is guaran-
24 teed by the United States or constitutes a debt or obligation
25 of the United States or of any agency or instrumentality

1 thereof other than the Board. The Board is authorized to
2 purchase in the open market any of its obligations outstand-
3 ing under this subsection at any time and at any price.

4 REGULATIONS

5 SEC. 206. The Board shall prescribe and publish such
6 regulations (including regulations providing for the wide
7 dissemination to small-business concerns of information con-
8 cerning the benefits and objectives of the program estab-
9 lished by this Act, defining in detail the financial and oper-
10 ational relationships among and between banks, associa-
11 tions, small-business concerns, and other persons, and other-
12 wise insuring that all possible assistance will be extended to
13 small-business concerns under this Act and that such assist-
14 ance will be an effective means of promoting the purposes
15 of this Act), and take such other actions, as may be neces-
16 sary and appropriate in carrying out this Act and in effec-
17 tively exercising the functions expressly and impliedly
18 vested in it under this Act.

19 TITLE III—ORGANIZATION OF SMALL BUSINESS
20 CAPITAL BANKS

21 ESTABLISHMENT OF BANKS

22 SEC. 301. The Board shall establish in each district a
23 small business capital bank. The principal office of each
24 bank shall be located (unless such location is rendered im-

1 possible by reason of adjustments in district boundaries
2 made under section 103 (4)) in the city within its district
3 where the Federal Reserve bank for such district is located,
4 and such Federal Reserve bank shall make available without
5 cost to the small business capital bank, in the Federal Reserve
6 bank building, the quarters and facilities needed by such
7 bank to carry out its functions under this Act. Each small
8 business capital bank shall include in its title the name of
9 the city in which it is located. Subject to the approval of
10 the Board, any bank may establish branches within its
11 district.

12 TEMPORARY MANAGEMENT

13 SEC. 302. (a) Each bank shall be temporarily managed
14 by seven directors appointed for terms of two years by the
15 Board. Such directors shall be citizens of the United States
16 and residents of the district in which the bank is located.
17 They shall each give a surety bond, the premium on which
18 shall be paid from the funds of the bank, and shall receive
19 such compensation as the Board shall fix. They shall choose
20 from among their number a chairman, vice chairman, secre-
21 tary, and treasurer and may, subject to the approval of the
22 Board, appoint and fix the compensation of such attorneys,
23 economists, accountants, experts, assistants, clerks, laborers,
24 and other employees as they deem necessary.

1 (b) The temporary directors of each bank shall, under
2 their hand, forthwith make an organization certificate which
3 shall specifically state—
4 (1) the name assumed by the bank;
5 (2) the district within which its operations are to
6 be carried on, and the particular city in which its prin-
7 cipal office is to be located;
8 (3) the amount of the bank's authorized capital
9 stock and the number of shares into which such stock
10 is to be divided, and the increase in such stock which
11 (under the regulations prescribed by the Board pursuant
12 to section 206) may result from conversion of debenture
13 bonds issued under section 305; and
14 (4) the fact that the certificate is made to enable
15 small-business concerns to avail themselves of the ad-
16 vantages of this Act.
17 The organization certificate shall be acknowledged before
18 a judge or clerk of some court of record or notary public
19 and shall, together with the acknowledgment thereof, be
20 authenticated by the seal of such court or notary and trans-
21 mitted to and filed in the principal office of the Board, where
22 it shall at all times be open to public inspection.
23 (c) The Board is authorized to direct such changes in
24 or additions to any such organization certificate, not incon-
25 sistent with this Act, as it may deem necessary or expedient.

1 (d) Upon duly making and filing the organization
2 certificate, the bank shall become (as of the date of the
3 execution of such certificate) a body corporate, and as such,
4 and in the name designated in such certificate, it shall have
5 power—

6 (1) to adopt and use a corporate seal;

7 (2) to have succession until it is dissolved by Act
8 of Congress or under the provisions of this Act;

9 (3) to make contracts;

10 (4) to sue and be sued, complain, interplead, and
11 defend, in any court of law or equity, as fully as a
12 natural person;

13 (5) to elect directors (subject to the provisions of
14 section 303) and by its board of directors to elect a
15 president and a vice president, appoint a secretary and
16 a treasurer and other officers and employees, define their
17 duties, require bonds of them and fix the penalty thereof,
18 and dismiss any such officers and employees at pleasure
19 and appoint others to fill their places;

20 (6) to prescribe, by its board of directors, subject
21 to the supervision and regulation of the Board, bylaws
22 not inconsistent with law, regulating the manner in
23 which its stock shall be issued, held, and disposed of,
24 its directors elected (subject to the provisions of section

1 303), its officers elected or appointed, its property trans-
2 ferred, its general business conducted, and the privileges
3 granted to it by law exercised and enjoyed; and
4 (7) to exercise, by its board of directors or its
5 duly authorized officers or agents, subject to law, all
6 such incidental powers as shall be necessary to carry
7 out its functions under this Act.

8 ELECTION OF DIRECTORS

9 SEC. 303. (a) After the expiration of the two-year
10 term of the temporary directors of any bank appointed by
11 the Board under section 302 (a), the directors of such bank
12 shall be chosen as provided in this section.
13 (b) Each bank shall have seven directors who shall
14 serve for concurrent terms of two years each. Five of such
15 directors shall be elected by majority vote of the stock-
16 holders of the bank, and two of such directors shall be
17 appointed by the Board.
18 (c) The annual rate of basic compensation of each
19 director of a bank, and any allowances for travel, subsistence,
20 and other expenses, shall be fixed by the Board. Each such
21 director shall be a citizen of the United States and a resident
22 of the district in which the bank is located, and shall have
23 such other qualifications as the Board may prescribe.
24 (d) The directors of any bank first appointed under
25 this section shall immediately take such action as may be

1 necessary to terminate the period of temporary management
2 of the bank and establish its permanent operation under its
3 charter and bylaws.

4 CAPITALIZATION

5 SEC. 304. (a) Each bank shall be established with an
6 authorized capitalization of $110,000,000, of which $10,-
7 000,000 shall be paid-in capital subscribed for by the Board
8 immediately upon the establishment of the bank and the
9 remainder shall be provided by investments of associations
10 under section 409 and of other financial institutions under
11 section 504 (b).

12 (b) The stock subscribed for by the Board under subsec-
13 tion (a) shall be retired in full not later than the time
14 when all of the remaining authorized capitalization has been
15 subscribed and paid in.

16 BORROWING POWER

17 SEC. 305. In addition to its authorized capitalization,
18 each bank shall have authority to obtain funds through the
19 sale to the Board of its debenture bonds, which shall—

20 (1) bear interest at such rate, and contain such
21 other terms, as the Board may fix;

22 (2) be callable on any interest payment date, upon
23 three months' notice, at par plus accrued interest; and

24 (3) be convertible at maturity if not theretofore
25 called, at the option of the Board, into stock of such

1 bank at the rate of one share of $100 par value 7 per
2 centum preferred stock for each $100 (or fraction
3 thereof) of the face value of the debenture bond or
4 bonds converted; and the right of conversion may be
5 exercised by the Board with respect to any one or
6 more debenture bonds without exercising such right
7 with respect to other such bonds held by it.

8 USE OF BANKS' FUNDS

9 SEC. 306. It shall be the primary function of each bank
10 to use any funds available to it from its capital account or
11 from any of its other accounts—

12 (1) to advance capital to associations in its district
13 as provided in section 408;

14 (2) to advance funds to private financial investment
15 institutions as described in section 504; and

16 (3) to make direct long-term loans to small-business
17 concerns as provided in section 503.

18 EXAMINATIONS AND REPORTS

19 SEC. 307. The Board shall from time to time require
20 that examinations and reports be made (by the General
21 Accounting Office) of the condition of all banks established
22 under this title, and shall publish consolidated statements of
23 the results thereof.

TITLE IV—ORGANIZATION OF SMALL BUSINESS INVESTMENT ASSOCIATIONS

ORGANIZATION OF ASSOCIATIONS

SEC. 401. Corporations to be known as small business investment associations may be organized by small-business concerns desiring to take advantage of the provisions of this Act. Not less than twenty-five such concerns shall be required to subscribe the articles of incorporation in order to form an association. One association may be organized in each State, but in no case shall more than one association be organized in any one trading area. Each association shall comply with all of the terms and conditions of this title, and shall be incorporated under the law of the State in which it is located.

OBJECTIVES

SEC. 402. Each association shall be organized to operate as a regulated closed-end investment company designed to provide necessary equity capital to small-business concerns within a particular community or trading area, and for such purpose it would be authorized—

(1) to raise capital in order to serve as a joint enterprise for the benefit of its stockholders as proprietors;

1 (2) to invest (and manage the investment of) the
2 capital of its stockholder-proprietors in carefully selected
3 enterprises with profit and growth potential;
4 (3) to furnish both management and investment
5 counsel to those selected enterprises where needed; and
6 (4) to provide its stockholder-proprietors with
7 specific and general investment information and ob-
8 jectives.

9 ARTICLES OF INCORPORATION

10 SEC. 403. (a) The articles of incorporation of each
11 association shall specify in general terms the objects for
12 which the association is formed, the name assumed by the
13 association, the area or areas where its operations are to be
14 carried on, the place where its principal office is to be
15 located, and the amount and classes of its capital stock. Such
16 articles may also contain any other provisions, not inconsist-
17 ent with the provisions of this Act, which the association
18 may deem it advisable to adopt for the regulation of its busi-
19 ness and the conduct of its affairs, including provision for
20 cumulative voting in the election of directors. Such articles,
21 and any amendments thereto adopted from time to time,
22 shall be subject to the approval of the Board as provided in
23 subsection (b).
24 (b) The articles of incorporation of each proposed

1 association shall be forwarded to the Board for its considera-
2 tion and approval or disapproval. In determining whether
3 to approve the organization of the association and its pro-
4 posed articles of incorporation, the Board shall give due
5 regard, among other things, to the need for the financing of
6 independent small-business concerns in the area in which the
7 proposed association is to commence business, the general
8 character of the proposed management of the association, and
9 the number and volume of operations of other associations
10 previously organized in the United States and in the region
11 where the proposed association would be located. After con-
12 sideration of all relevant factors, the Board may in its dis-
13 cretion approve the articles of incorporation and issue to
14 the association a permit to begin business.

15 (c) Upon issuance to any association of a permit to be-
16 gin business as provided in subsection (b), such association
17 shall become and be a body corporate and as such, and in
18 the name designated in its articles of incorporation, shall have
19 power—

20 (1) to adopt and use a corporate seal;

21 (2) to have succession until dissolved by the vote
22 of its shareholders owning two-thirds of its voting stock,
23 or by Act of Congress, or in the manner provided in sec-
24 tion 414;

1 (3) to make contracts;

2 (4) to sue and be sued, complain and defend, in
3 any court of law or equity;

4 (5) by its board of directors, to appoint such offi-
5 cers and employees as may be deemed proper, define
6 their authority and duties, fix their compensation in cases
7 where such compensation is approved by the Board as
8 provided in section 404 (f), require bonds of such of
9 them as it deems advisable and fix the penalty thereof,
10 and dismiss any of such officers and employees at
11 pleasure and appoint others to fill their places;

12 (6) to adopt bylaws regulating the manner in
13 which its stock shall be transferred, its officers and em-
14 ployees appointed, its property transferred, and the
15 privileges granted to it by law exercised and enjoyed;

16 (7) to establish branch offices or agencies, subject
17 to the approval of the Board;

18 (8) to acquire, hold, operate, and dispose of any
19 property (real, personal, or mixed), whenever neces-
20 sary or appropriate in carrying out its lawful functions;

21 (9) to operate in such area or areas as may be
22 specified in its articles of incorporation and approved
23 by the Board; and

24 (10) to exercise all of the powers set forth in this
25 Act, and such other incidental powers as may be reason-

1 ably necessary to carry on the business for which the
2 association is organized.

3 BOARD OF DIRECTORS

4 SEC. 404. (a) Each association shall have a board of
5 directors consisting of seven members, chosen as provided
6 in this section, who shall serve for concurrent terms of two
7 years each.

8 (b) The seven directors of any association who first
9 take office after the approval of such association's articles
10 of incorporation shall be appointed by the board of directors
11 of the small business capital bank for the district in which
12 the association is located.

13 (c) At the expiration of the two-year term of the di-
14 rectors appointed under subsection (b), and every two years
15 thereafter, the directors of the association shall be chosen
16 as follows: Five shall be elected by majority vote of the
17 stockholders of the association, and two shall be appointed
18 by the board of directors of the small business capital bank
19 for the district in which the association is located.

20 (d) Any vacancy that may occur in the board of
21 directors of an association through death, resignation, or
22 other cause shall be filled in the same manner as in the case
23 of the original election or appointment, and the new direc-
24 tor thus chosen shall serve out the unexpired portion of

1 the term. Until such election or appointment of a new
2 director, the remaining directors shall have power to fill
3 the vacancy for the time being by appointing a temporary
4 director to serve until the next meeting of the stockholders,
5 or until the bank for the district can act, as the case may
6 be. All directors shall hold office until their successors are
7 chosen and have qualified.

8 (e) The board of directors of each association shall from
9 time to time elect a president and vice president from
10 among its number.

11 (f) The directors of any association, and all officers
12 thereof except the secretary-treasurer, shall serve as such
13 without compensation unless the payment of salaries to them
14 is approved by the Board. All directors and officers except
15 the secretary-treasurer shall, during their term of office, be
16 bona fide residents of the area within which the association
17 is authorized to do business, and shall be stockholders of the
18 association.

19 SECRETARY-TREASURER

20 SEC. 405. (a) The board of directors of each association
21 shall choose, in such manner as may be deemed appropriate,
22 a secretary-treasurer, who shall receive such compensation
23 for his services as such as the board of directors shall
24 determine.

25 (b) It shall be the duty of the secretary-treasurer of

1 each association to act as custodian of its funds and to deposit
2 such funds in such bank as the board of directors may desig-
3 nate. He shall also be the custodian of its securities, records,
4 papers, and certificates of stock, and all documents relating
5 to, or bearing upon, the conduct of its affairs. He shall furnish
6 a suitable surety bond to be prescribed and approved by
7 the Board for the proper performance of his duties under this
8 Act, which shall cover prompt collection and transmission of
9 funds. He shall make reports to the Board as required by
10 it upon forms to be provided for that purpose. Upon request
11 of the Board he shall furnish information regarding the con-
12 dition of the association for which he is acting, and he shall
13 carry out all duly authorized orders of the Board.

14 PAYMENT OF EXPENSES AND SALARIES

15 SEC. 406. The reasonable expenses of the secretary-
16 treasurer of any association and his salary, and the reason-
17 able expenses of the other officers and agents of the associa-
18 tion (and their salaries when payable as provided in sec-
19 tion 404 (f)), shall be paid from the general funds of the
20 association, and the board of directors of the association
21 is authorized to set aside such sums as it deems requisite for
22 that purpose and for other expenses of the association.
23 When no such funds are available, the board of directors
24 may levy an assessment on the members of the association
25 in proportion to the amount of the stock of the association

1 held by each, which may be repaid as soon as funds are
2 available, or it may secure an advance from the bank of its
3 district, to be repaid with interest at the rate of 6 per centum
4 a year, from dividends belonging to the association. Each
5 bank is authorized to make such advances and to deduct such
6 repayments.

7 CAPITAL STOCK

8 SEC. 407. (a) Each association shall have a paid-in
9 capital and surplus equal to a least $500,000 before it may
10 commence business. In order to facilitate the formation of
11 such associations, each small business capital bank is author-
12 ized and directed, notwithstanding any other provision of
13 law, to invest in the shares of stock of one or more associa-
14 tions, investing at least $250,000 in the shares of stock of
15 each such association, but with a view to the ultimate dis-
16 posal of such stock to private investors described in sub-
17 section (b).

18 (b) The shares of stock in any association shall be
19 eligible at any time for purchase by any small-business
20 concern located and doing business in the trading area in
21 which such association is located.

22 (c) The aggregate amount of shares in any association
23 or associations which may be owned or controlled by any
24 stockholder, or by any group or class of stockholders, may
25 be limited by the Board; and no one stockholder, other than

1 a small business capital bank, shall at any time, own or
2 control more than 10 per centum of the total outstanding
3 shares of any such association.

4 BORROWING POWER

5 SEC. 408. (a) Each association shall have authority to
6 borrow money from the bank of its district and to issue
7 therefor its debentures, bonds, promissory notes, or other
8 obligations under such general conditions and subject to such
9 limitations and regulations as the Board may prescribe.

10 (b) In addition to the borrowing authority provided by
11 subsection (a), each association shall have authority to
12 obtain funds from the bank of its district through the sale
13 to such bank of its debenture bonds, which shall—

14 (1) bear interest at such rate, and contain such
15 other terms, as such bank may fix with the approval
16 of the Board;

17 (2) be callable on any interest payment date, upon
18 three months' notice, at par plus accrued interest; and

19 (3) be convertible on any interest payment date
20 prior to retirement or maturity, at the option of such
21 bank, into stock of the association at the rate of one
22 share of $50 par value common stock and one share of
23 $50 par value 7 per centum preferred stock for each
24 $100 (or fraction thereof) of the face value of the

1 debenture bond or bonds converted; and the right of
2 conversion may be exercised by the bank with respect
3 to any one or more debenture bonds without exercising
4 such right with respect to other such bonds held by it.
5 (c) Each association shall also have authority to obtain
6 funds from the bank of its district by transferring or obli-
7 gating to such bank, under a proper power of attorney, its
8 interest in and to any income debenture bonds or other
9 bonds, mortgages, promissory notes, preferred stock or other
10 capital shares of business enterprises, or other obligations or
11 securities acquired and held by it in the performance of its
12 functions under this Act.

13 INVESTMENT BY ASSOCIATIONS IN STOCK OF BANKS

14 SEC. 409. Whenever a bank advances funds to an associa-
15 tion under this Act, such association shall be required to be-
16 come a stockholder-proprietor of the bank by investing in the
17 capital stock of the bank in an amount equal to 5 per centum
18 of the amount of the funds so advanced.

19 USE OF SERVICES OF PUBLIC AGENCIES AND PRIVATE
20 FINANCIAL INSTITUTIONS

21 SEC. 410. (a) Each association may make use of ad-
22 visory services of departments and agencies of the Federal
23 Government which are available for and useful to industrial
24 and commercial businesses, and may provide small-business
25 concerns with consulting and advisory services on a fee basis

1 and have on its staff persons competent to provide such
2 services.

3 (b) When practicable the operations of an association
4 may be undertaken in cooperation with commercial banks
5 and other private financial institutions, and any investiga-
6 tions or other activities required in connection with its opera-
7 tions under this Act may under regulations of the Board be
8 handled through such institutions on a fee basis.

9 DISPOSITION OF FUNDS HELD BY ASSOCIATIONS

10 SEC. 411. (a) Subject to the supervision and direction
11 of the Board, any small business capital bank is authorized
12 to act as a depository or fiscal agent for any association.

13 (b) Any association may invest funds not reasonably
14 needed for its current operations in direct obligations of, or
15 obligations guaranteed as to principal and interest by, the
16 United States.

17 EXAMINATIONS

18 SEC. 412. Each association shall be subject to examina-
19 tions made under the direction of the Board by examiners
20 selected or approved by the Board, and the cost of such
21 examinations, including the compensation of the examiners,
22 may in the discretion of the Board be assessed against the
23 association examined and when so assessed shall be paid by
24 such association.

1 REPORTS

2 SEC. 413. Each association shall make such reports to
3 the Board, at such times and in such form, as the Board may
4 require.

5 DISSOLUTION

6 SEC. 414. Should any association violate or fail to com-
7 ply with any of the provisions of this Act or of regulations
8 prescribed hereunder by the Board, it may be dissolved
9 and all of its rights and privileges forfeited. Before any
10 association shall be declared dissolved and its rights and
11 privileges forfeited, however, the noncompliance with or
12 violation of this Act shall be determined and adjudged by a
13 court of the United States of competent jurisdiction in a suit
14 brought for that purpose by the United States at the instance
15 of the Board or the Attorney General in the district in which
16 the association is located.

17 DISCLAIMER OF UNITED STATES LIABILITY ON ASSOCIATION
18 OBLIGATIONS AND SECURITIES

19 SEC. 415. Nothing in this Act or in any other provision
20 of law shall be deemed to impose any liability on the United
21 States, or on the Board or any small business capital bank,
22 with respect to any obligations entered into or securities
23 issued by an association.

1 EXEMPTIONS FOR ASSOCIATION SECURITIES

2 SEC. 416. (a) Section 3 of the Securities Act of 1933
3 (15 U. S. C., sec. 77c) is amended by adding at the end
4 thereof the following new subsection:

5 "(c) The Commission may from time to time by its
6 rules and regulations, and subject to such terms and condi-
7 tions as may be prescribed therein, add to the securities
8 exempted as provided in this section any class of securities
9 issued by a small business investment association under the
10 Small Business Capital Bank Act if it finds, having regard
11 for the purposes of that Act, that the enforcement of this
12 Act with respect to such securities is not necessary in the
13 public interest and for the protection of investors."

14 (b) Section 304 of the Trust Indenture Act of 1939
15 (15 U. S. C., sec. 77ddd) is amended by adding at the
16 end thereof the following new subsection:

17 "(e) The Commission may from time to time by its
18 rules and regulations, and subject to such terms and condi-
19 tions as may be prescribed therein, add to the securities
20 exempted as provided in this section any class of securities
21 issued by a small business investment association under the
22 Small Business Capital Bank Act if it finds, having regard
23 to the purposes of that Act, that the enforcement of this

1 Act with respect to such securities is not necessary in the
2 public interest and for the protection of investors."

3 LIABILITY OF ASSOCIATIONS FOR FEDERAL INCOME TAX

4 SEC. 417. (a) Section 851 (a) of the Internal Rev-
5 enue Code of 1954 (relating to general rule for definition
6 of regulated investment company) is amended by striking
7 out the period at the end of paragraph (2) and inserting
8 in lieu thereof ", or", and by adding after paragraph (2)
9 the following new paragraph:

10 "(3) which is a small business investment associa-
11 tion organized under title IV of the Small Business
12 Capital Bank Act."

13 (b) Section 851 (b) (2) of such Code (relating to
14 limitations applicable to definition of regulated investment
15 company) is amended by inserting after "90 percent" the
16 following: "(75 percent in the case of a corporation de-
17 scribed in subsection (a) (3))".

18 (c) (1) The heading of section 851 (e) of such Code
19 (relating to investment companies furnishing capital to de-
20 velopment corporations) is amended by inserting "OR TO
21 SMALL BUSINESS CONCERNS" after "DEVELOPMENT COR-
22 PORATIONS".

23 (2) Paragraph (1) of such section 851 (e) is amended
24 by inserting after "generally available," the following: "or
25 if such investment company is a small business investment

1 association which was organized under title IV of the Small
2 Business Capital Bank Act and which has not been exempted
3 under subsection (f) from the limitations of subsection
4 (b) (4),".

5 (3) The heading of paragraph (3) of such section
6 851 (e) is amended by inserting "IN THE CASE OF COM-
7 PANIES FURNISHING CAPITAL TO DEVELOPMENT CORPORA-
8 TIONS" after "STATUS".

9 (d) Section 851 of such Code is further amended by
10 adding at the end thereof the following new subsection:

11 "(f) EXEMPTION OF SMALL BUSINESS INVESTMENT
12 ASSOCIATIONS FROM LIMITATIONS OF SUBSECTION
13 (b) (4).—If the Small Business Capital Bank Board
14 determines that it is necessary and appropriate to the ac-
15 complishment of the purposes of the Small Business Capital
16 Bank Act that any or all of the small business investment
17 associations formed under title IV of such Act be exempt
18 from the requirements of subsection (b) (4) of this Act,
19 it shall certify such determination to the Secretary or his
20 delegate and, in such event, the limitations prescribed in
21 subsection (b) (4) shall not apply to such association or
22 associations."

23 (e) (1) Section 852 (a) of such Code (relating to
24 requirements applicable to taxation of regulated investment
25 companies) is amended by adding at the end thereof the

1 following: "The investment company taxable income of a
2 regulated investment company which is a small business
3 investment association organized under title IV of the Small
4 Business Capital Bank Act shall, for purposes of paragraph
5 (1), be increased by the amounts described in subsection
6 (d) (3) (D) and decreased by the amounts described in
7 subsection (d) (5) (B)."
8 (2) Section 852 of such Code is further amended by
9 adding at the end thereof the following new subsection:
10 "(d) SMALL BUSINESS INVESTMENT ASSOCIATION
11 RESERVE.—
12 "(1) RESERVE GENERALLY.—A regulated invest-
13 ment company which is a small business investment
14 association formed under title IV of the Small Business
15 Capital Bank Act may, under regulations prescribed
16 by the Secretary or his delegate, establish and maintain
17 a reserve subject to the limitations provided in this
18 subsection.
19 "(2) LIMITATION ON RESERVE.—The amount of
20 the reserve shall not at any time exceed the lesser of—
21 "(A) 50 percent of the invested capital of the
22 company as defined in paragraph (7), or
23 "(B) the accumulated earnings and profits
24 determined as of the close of the taxable year.
25 "(3) CHARGES TO RESERVE.—The reserve shall be

1 charged as of the end of the taxable year (whether or
2 not such charge produces a minus amount in the reserve)
3 with the following:
4 "(A) the net capital loss for the taxable year
5 (as defined in section 1222 (10));
6 "(B) the net operating loss for the taxable
7 year (as defined in section 172 (c));
8 "(C) the Federal income taxes attributable to
9 the amount added to the reserve under paragraph
10 (5); and
11 "(D) such amount as may be necessary by
12 reason of the limitation provided in paragraph (2).
13 "(4) MANADATORY ADDITIONS TO THE RE-
14 SERVE.—There shall be added to the reserve as of the
15 close of the taxable year the following:
16 "(A) an amount equal to the excess of the net
17 capital gain for the taxable year computed without
18 regard to section 1212 (relating to capital loss
19 carryover) over the net capital gain for the taxable
20 year; and
21 "(B) an amount equal to the excess of the tax-
22 able income for the taxable year computed without
23 regard to section 172 (relating to the net operating
24 loss deduction) over the taxable income for the tax-
25 able year.

1 "(5) DISCRETIONARY ADDITION TO THE RE-
2 SERVE.—In any year in which an amount (other than
3 the amount described in paragraph (4)) is added to
4 the reserve, the company shall, in the computation of
5 its investment company taxable income be allowed—
6 "(A) a deduction equal to such amount of the
7 addition to the reserve as does not cause the aggre-
8 gate amount of the reserve (including such addi-
9 tion) to exceed 20 percent of the invested capital
10 of the company as defined in paragraph (7); and
11 "(B) the deduction for dividends received pro-
12 vided in section 243 but such deduction shall not
13 exceed 85 percent of the portion of amounts added
14 to the reserve under this paragraph which is not
15 deductible from investment company taxable in-
16 come under subparagraph (A).
17 "(6) REDUCTION OF TERMINATION OF RESERVE.—
18 In the event of a reduction or termination of the reserve
19 in connection with a partial or complete liquidation
20 of the company (or of any company to which the reserve
21 has been transferred in an exchange upon which gain
22 was not recognized by reason of any provision of this
23 subtitle), the gain realized by a stockholder upon any
24 such liquidation shall, to the extent of the pro rata share

1 of the reserve, be considered as a gain from the sale
2 or exchange of property held for less than six months.
3 "(7) INVESTED CAPITAL.—For purposes of para-
4 graph (2), the term 'invested capital' means the sum,
5 determined as of the close of the taxable year, of—
6 "(A) the amount of money or property (in-
7 cluded in an amount equal to its unadjusted basis
8 without regard to the value of the property as of
9 March 1, 1913, except that if such basis is a substi-
10 tuted basis, it shall be adjusted, with respect to the
11 period before the property was paid in, by an amount
12 equal to adjustments proper under section 312 (f)
13 for determining earnings and profits) previously
14 paid in for stock, or as paid-in surplus or as a
15 contribution to capital, reduced by the amount
16 of distributions not out of earnings and profits in
17 the year of distribution and not out of accumulated
18 earnings and profits; and
19 "(B) the amount of the outstanding indebt-
20 edness (not including interest) of the company
21 which is evidenced by a bond, note, bill of exchange,
22 debenture, certificate of indebtedness, mortgage, or
23 deed of trust, except that indebtedness not repre-
24 sented by a bond or debenture shall not be included

1 in excess of an amount equal to the average daily
2 amount of indebtedness not so represented which
3 was outstanding during the taxable year."
4 (f) The amendments made by this section shall apply
5 only with respect to taxable years ending on or after De-
6 cember 31, 1958.

7 STATE AND LOCAL TAXATION OF ASSOCIATIONS

8 SEC. 418. Each association, including its franchise,
9 capital, reserves, and surplus, its income, its real property,
10 its tangible and intangible personal property, and its obli-
11 gations (both as to principal and income derived therefrom),
12 shall be subject to taxation, in the same manner and to the
13 same extent as a State-chartered institution of similar char-
14 acter, by any State, county, municipality, or local taxing au-
15 thority; and its real property shall be subject to special as-
16 sessments for local improvements.

17 TITLE V—PROVISION OF ASSISTANCE TO SMALL-
18 BUSINESS CONCERNS

19 STANDARDS OF ELIGIBILITY FOR ASSISTANCE

20 SEC. 501. The Board shall promulgate standards to de-
21 termine the eligibility of small-business concerns for the
22 assistance provided by this Act. In promulgating such
23 standards, which may differ according to the type of assist-

1 ance involved and any other relevant factors, the Board shall
2 give consideration to—
3 (1) the need to promote the development and
4 growth of small-business concerns so as to enable them
5 to make their maximum contribution to productive in-
6 vestment and employment and to the economic stability
7 and growth of the Nation;
8 (2) the need to make capital for such concerns
9 more readily available in adequate amounts and on
10 reasonable terms;
11 (3) the need to facilitate maximum participation of
12 private financial institutions and investors in financing
13 these concerns; and
14 (4) the need to supplement the existing facilities
15 of banks and other private financial institutions through
16 the program of assistance provided under this Act.
17 PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS
18 CONCERNS
19 SEC. 502. (a) It shall be the primary function of each
20 small business investment association to provide a source
21 of needed equity capital for incorporated small-business con-
22 cerns which are located within its district, and which meet
23 the standards of eligibility promulgated by the Board under

1 section 501, by advancing funds to such concerns in the
2 manner and subject to the conditions described in this section.
3 (b) Funds shall be advanced by an association to a
4 small-business concern only through the purchase of deben-
5 ture bonds (of such concern) which shall—
6 (1) bear interest at such rate, and contain such
7 other terms, as such association may fix with the ap-
8 proval of the Board;
9 (2) be callable on any interest payment date, upon
10 three months' notice, at par plus accrued interest; and
11 (3) be convertible on any interest payment date
12 prior to maturity (unless previously called), at the
13 option of the association, into stock of such concern at
14 the rate of one share of $50 par value common stock
15 and one share of $50 par value 7 per centum preferred
16 stock for each $100 (or fraction thereof) of the face
17 value of the debenture bond or bonds converted; and
18 the right of conversion may be exercised by the associa-
19 tion with respect to any one or more debenture bonds
20 without exercising such right with respect to other such
21 bonds of the same concern held by the association.
22 (c) Before any funds are advanced by an association to
23 a small-business concern under this section—
24 (1) the association may require such concern to re-
25 finance any or all of its outstanding indebtedness so that

1 the association is the only holder of any evidence of
2 indebtedness of such concern; and
3 (2) such concern shall agree that it will not there-
4 after incur any indebtedness without first securing the
5 approval of the association and giving the association
6 the first opportunity to finance such indebtedness.
7 (d) Without the approval of the Board, the aggregate
8 amount of obligations and securities of any one small business
9 concern which may be acquired and held by an association
10 at any one time shall not exceed whichever of the following
11 is the larger:
12 (1) $1,000,000; or
13 (2) 33⅓ per centum of the combined capital and
14 surplus of the association.
15 (e) Whenever an association advances funds to a small-
16 business concern under this section, such concern shall be
17 required to become a stockholder-proprietor of the associa-
18 tion by investing in the capital stock of the association in
19 an amount equal to 5 per centum of the amount of the funds
20 so advanced.
21 LONG-TERM LOANS TO SMALL BUSINESS CONCERNS
22 SEC. 503. (a) Each bank is authorized to make loans,
23 in the manner and subject to the conditions described in this
24 section, to incorporated and unincorporated small-business
25 concerns which are located in its district, and which meet

1 the standards of eligibility promulgated by the Board under
2 section 501, in order to provide such concerns with funds
3 needed for sound financing, growth, modernization, and ex-
4 pansion.

5 (b) Loans made under this section may be made di-
6 rectly, or in cooperation with commercial lending institu-
7 tions through agreements to participate on an immediate or
8 deferred basis.

9 (c) No financial assistance shall be extended under
10 this subsection unless the financial assistance needed is not
11 otherwise available to the small-business concern on reason-
12 able terms. No immediate participation may be purchased
13 unless it is shown that a deferred participation is not avail-
14 able; and no direct loan may be made unless it is shown
15 that a participation is not available. Any participation by
16 a bank on a deferred basis shall not be in excess of 90 per
17 centum of the balance of the loan outstanding at the time
18 of disbursement by the bank.

19 (d) The rate of interest for the bank's share of any
20 loan made under this section shall be no more than 5 per
21 centum per annum, and shall not be more than the rate
22 prevailing within the district where the bank is located if
23 such prevailing rate (at the time of disbursement by the
24 bank) is less than 5 per centum per annum.

25 (e) Loans made under this section shall have a matu-

1 rity not exceeding thirty years; except that a loan made
2 under this section for the purpose of construction, conversion,
3 or expansion of facilities may have a maturity of thirty years
4 plus such additional period as is estimated by the bank
5 making the loan to be required to complete such construc-
6 tion, conversion, or expansion.

7 (f) All loans made under this section shall be of such
8 sound value, or so secured, as reasonably to assure repay-
9 ment.

10 (g) Any bank which has made a loan to a small-busi-
11 ness concern under this section is authorized to extend the
12 maturity of or renew such loan for additional periods not
13 exceeding ten years if the bank finds that such extension
14 or renewal will aid in the orderly liquidation of such loan.

15 ASSISTANCE THROUGH PRIVATE INVESTMENT COMPANIES
16 AND STATE AND LOCAL DEVELOPMENT CORPORATIONS

17 SEC. 504. (a) In addition to providing financial assist-
18 ance for small-business concerns by advancing funds to
19 associations and making long-term loans to such concerns
20 as otherwise provided in this Act, each bank, subject to
21 regulations of the Board, is authorized to advance funds to
22 investment companies (both open-end and closed-end) in
23 its district which are in existence on the date of the enact-
24 ment of this Act, and to State and local development cor-
25 porations in its district whether in existence on such date

1 or formed after such date, on condition that such funds be
2 used only to supply equity capital to small-business concerns
3 in such district in a manner which will assist in carrying
4 out the purpose of this Act. Any funds advanced to a
5 financial institution under this subsection shall be in exchange
6 for convertible debenture bonds of such institution having
7 the same terms and conditions as the debenture bonds of
8 associations described in section 408 (b), and funds may be
9 so advanced without regard to the use and investment by
10 such institution of funds secured by it from other sources.
11 (b) Whenever a bank advances funds to a financial in-
12 stitution under subsection (a), such institution shall be re-
13 quired to become a stockholder-proprietor of such bank by
14 investing in the capital stock of such bank in an amount
15 equal to 5 per centum of the amount of the funds so
16 advanced.
17 (c) A bank may acquire and hold stock in one or more
18 financial institutions through conversion of the debenture
19 bonds of such institutions under subsection (a), and a
20 financial institution may acquire and hold stock of a bank
21 under subsection (b), without regard to any limitation (in
22 section 12 of the Investment Company Act of 1940 or in any
23 other law of the United States) upon the right of such bank
24 or institution to acquire and hold such stock or the amount of
25 such stock which may be so acquired and held.

1 (d) As used in subsection (a)—

2 (1) the term "investment companies" means in-
3 vestment companies as defined in section 3 of the Invest-
4 ment Company Act of 1940 which are subject to the
5 provisions of that Act; and

6 (2) the term "State and local development cor-
7 porations" means enterprises incorporated under State
8 law for the primary purpose of promoting and assisting
9 the growth and development of small business concerns
10 in the areas covered by their operations.

11 TITLE VI—MISCELLANEOUS

12 CRIMINAL PENALTIES

13 SEC. 601. (a) The first paragraph of section 217 of title
14 18, United States Code, is amended by inserting after "farm
15 credit examiner," the following: "or of any small business
16 capital bank or small business investment association,".

17 (b) Section 218 of such title is amended by inserting
18 after "National Agricultural Credit Corporations," the fol-
19 lowing: "or an examiner of small business capital banks or
20 small business investment associations,".

21 (c) (1) The first paragraph of section 221 of such title
22 is amended by inserting after "United States," the following:
23 "or a small business investment association or small business
24 capital bank,".

25 (2) The second paragraph of such section 221 is

1 amended by inserting after "Congress," the following: "or
2 any small business capital bank or small business investment
3 association,".

4 (3) The heading of such section 221 is amended by
5 striking out "farm loan or land bank" and inserting in lieu
6 thereof "farm loan, land bank, or small business".

7 (4) The table of sections for chapter 11 of such title
8 18 is amended by striking out "farm loan or land bank" in
9 the reference to section 221 and inserting in lieu thereof
10 "farm loan, land bank, or small business".

11 (d) Section 657 of such title is amended by inserting
12 after "Federal Savings and Loan Insurance Corporation,"
13 the following: "or any small business capital bank or small
14 business investment association,".

15 (e) Section 1006 of such title is amended by inserting
16 after "Federal Savings and Loan Insurance Corporation,"
17 the following: "or any small business capital bank or small
18 business investment association,".

19 (f) Section 1014 of such title is amended by inserting
20 after "a Federal Reserve bank," the following: "or of a
21 small business capital bank or a small business investment
22 association,".

1 INJUNCTIVE RELIEF

2 SEC. 602. Whenever in the judgment of the Board any
3 person has engaged or is about to engage in any acts or
4 practices which constitute or will constitute a violation of
5 any provision of this Act or of any regulation prescribed by
6 the Board under this Act, the Board may make application
7 to the proper district court of the United States, or the
8 United States court of any Territory or other place subject
9 to the jurisdiction of the United States, for an order enjoin-
10 ing such acts or practices, or for an order enforcing compli-
11 ance with such provision, and such courts shall have juris-
12 diction of such actions and upon a showing by the Board
13 that such person has engaged or is about to engage in any
14 such acts or practices a permanent or temporary injunction,
15 restraining order, or other order shall be granted without
16 bond.

85TH CONGRESS
2D SESSION

S. 3191

A BILL

To create a Small Business Capital Bank System to make available to small business a source of equity and long-term loan capital where such capital is not available on reasonable terms from existing private sources; to transfer to such system all funds which are presently available under section 13b of the Federal Reserve Act for loans to industrial and commercial firms, together with certain other funds out of the surplus accounts of the Federal Reserve banks; and for other purposes.

By Mr. JOHNSON of Texas

JANUARY 30 (legislative day, JANUARY 27), 1958
Read twice and referred to the Committee on Banking and Currency

S. 3643

A BILL

85TH CONGRESS
2D SESSION

S. 3643

IN THE SENATE OF THE UNITED STATES

APRIL 21, 1958

Mr. THYE (for himself, Mr. PAYNE, Mr. ALLOTT, Mr. BEALL, Mr. MUNDT, Mr. CARLSON, Mr. JAVITS, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To provide financial assistance to small-business concerns through private (local) or State development credit corporations, to establish small-business investment associations, to make equity-type capital available through funds provided by the Small Business Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—TITLE, POLICY, PURPOSE, AND
4 DEFINITIONS

5 TITLE

6 SEC. 101. This Act may be cited as the "Small
7 Business Capital Act of 1958".

1 DECLARATION OF POLICY

2 SEC. 102. It is the policy of the Congress to foster the
3 growth, independence, and stability of small business in
4 this country in order to preserve a sound national economy.
5 To effectuate such policy in a changing economy requires
6 the enactment by Congress from time to time of legislation
7 to meet the changing needs of small business.
8 It is hereby declared to be the policy of the Congress
9 to provide the small-business concerns of the United States
10 with an additional source of equity capital and thereby to
11 promote their growth and development in the interest of a
12 sound national economy: *Provided, however,* That this policy
13 shall be carried out in such manner as to insure the maximum
14 participation of private financing sources.

15 STATEMENT OF PURPOSE

16 SEC. 103. The Congress finds that the small-business
17 concerns of the United States are in need of additional equity
18 capital to finance their growth and development.
19 The Congress further finds that private (local) and
20 State development credit corporations should be encouraged
21 and are in need of supplemental financial assistance.
22 The purpose of this Act is to provide promptly such
23 capital and assistance.

1 DEFINITIONS

2 SEC. 104. As used in this Act—

3 (1) "State" shall have reference to and include the
4 several States, the Territories of Alaska and Hawaii, the
5 District of Columbia, and the Commonwealth of Puerto Rico.

6 (2) "Small Business Act" shall mean the Small Busi-
7 ness Act of 1953, as amended.

8 (3) "Administrator" means the Administrator of the
9 Small Business Administration, referred to in the Small
10 Business Act.

11 (4) "Administration" means the Small Business Ad-
12 ministration, created by the Small Business Act.

13 TITLE II—AUTHORIZATION FOR FUNDS

14 SEC. 201. Subsection (b) of section 204 of the Small
15 Business Act is hereby amended as follows:

16 (1) The figure "$530,000,000" shall be deleted wher-
17 ever it appears in such subsection and in lieu thereof there
18 shall be substituted the figure "$750,000,000".

19 (2) The word and reference "and (b) (3)" at the end
20 of the fourth sentence in such subsection shall be deleted
21 and in lieu thereof there shall be substituted following the
22 references, word and punctuation: "(b) (3), (c), (d),
23 and (e)".

1 (3) The figure "$305,000,000" appearing in the fifth
2 sentence in such subsection shall be deleted and in lieu
3 thereof there shall be substituted the figure "$525,000,000".
4 Further, the period at the end of such sentence shall be de-
5 leted and there shall be inserted the following additional
6 references: ", (c), (d), and (e)".

7 TITLE III—SECURED LOANS TO PRIVATE
8 (LOCAL) OR STATE DEVELOPMENT CREDIT
9 CORPORATIONS

10 SEC. 301. Section 207 of the Small Business Act is
11 hereby amended by adding the following new subsection:
12 "(c) The Administration is empowered to make loans
13 for plant construction, conversion or expansion, including the
14 acquisition of land, to private (local) or State development
15 credit corporations formed to assist, develop, and expand the
16 economy of an area, and such loans may be made or effected
17 either directly or in cooperation with banks or other lending
18 institutions through agreements to participate on an imme-
19 diate or deferred basis: *Provided, however,* That the fore-
20 going powers shall be subject to the following restrictions and
21 limitations:
22 "(1) No financial assistance shall be extended by the
23 Administration pursuant to this subsection unless the financial
24 assistance applied for is not otherwise available on reason-
25 able terms and all loans made shall be so secured as reason-

1 ably to assure repayment; no immediate participation may
2 be purchased unless it is shown that a deferred participation
3 is not available; and no loan may be made unless it is shown
4 that a participation is not available. In agreements to par-
5 ticipate in loans on a deferred basis under this subsection,
6 such participation by the Administration shall not be in
7 excess of 90 per centum of the balance of the loan outstand-
8 ing at the time of disbursement.

9 "(2) No financial assistance shall be extended by the
10 Administration pursuant to this subsection if it will cause
11 a relocation of all or a part of a small-business concern so as
12 to effect a significant reduction in employment in the general
13 area of original location or will provide facilities to be made
14 available to a small-business concern at a subsidy to induce
15 any relocation or will aid any relocation for other than a
16 sound business purpose approved by the Administrator.

17 "(3) The proceeds of any such loan must be used solely
18 by such borrower to assist an identifiable small-business con-
19 cern and for a sound business purpose approved by the Ad-
20 ministration.

21 "(4) Loans made by the Administration under this
22 authority shall be limited to $250,000 for each such identi-
23 fiable small-business concern.

24 "(5) Such corporations must meet criteria established
25 by the Administration, including the extent of participation

1 or amount of paid-in capital to be used in each instance as
2 is determined to be reasonable by the Administration.
3 "(6) No loans including extensions or renewals thereof
4 may be made by the Administration for a period or periods
5 exceeding ten years plus such additional period as is esti-
6 mated may be required to complete construction, conversion,
7 or expansion: *Provided,* That the Administration may ex-
8 tend the maturity of or renew any loan made pursuant to
9 this subsection beyond the period stated for additional pe-
10 riods not to exceed ten years, if such extension or renewal
11 will aid in the orderly liquidation of such loan. Any such
12 loan shall bear interest at a rate not to exceed 6 per centum
13 per annum."

14 TITLE IV—LOANS TO STATE DEVELOPMENT
15 CREDIT CORPORATIONS EVIDENCED BY DE-
16 BENTURES

17 SEC. 401. Section 207 of the Small Business Act is
18 hereby amended by adding the following new subsection:
19 "(d) The Administration is also empowered to make
20 loans to State development credit corporations, which shall
21 be evidenced by debentures, promissory notes, or other
22 obligations upon such conditions and in such form as may
23 be approved by the Administration, subject to the following
24 limitations:
25 "(1) Any funds loaned to a development credit corpo-

1 ration under this subsection must be used solely for the
2 purpose of assisting small-business concerns and in accord-
3 ance with regulations promulgated by the Administration.
4 "(2) No financial assistance shall be extended by the
5 Administration pursuant to this subsection if it will cause a
6 relocation of all or a part of a small business concern so as
7 to effect a significant reduction in employment in the general
8 area of original location or will provide facilities to be made
9 available to a small-business concern at a subsidy to induce
10 any relocation or will aid any relocation for other than a
11 sound business purpose approved by the Administrator.
12 "(3) No loans including extensions or renewals thereof
13 may be made by the Administration for a period or periods
14 exceeding ten years except that any loan made for the pur-
15 poses of constructing facilities may have a maturity of ten
16 years plus such additional period as is estimated may be
17 required to complete such construction: *Provided,* That the
18 Administration may extend the maturity of or renew any
19 loan made pursuant to this subsection beyond the period
20 stated for additional periods not to exceed ten years, if such
21 extension or renewal will aid in the orderly liquidation of
22 such loan. Any such loan shall bear interest at a rate not
23 to exceed 6 per centum per annum.
24 "(4) The funds borrowed by the State development
25 credit corporation from all sources, including amounts bor-

1 rowed from the Administration under this subsection, shall
2 not exceed four times the paid-in capital and surplus of such
3 corporation.

4 "(5) Loans made by the Administration under this sub-
5 section to each State development credit corporation shall
6 not exceed the total of amount borrowed by it from all other
7 sources.

8 "(6) The Administration shall require, to the extent
9 feasible, that the funds borrowed under this subsection shall
10 be treated pari passu with those funds borrowed by the
11 State development credit corporations, regardless of source,
12 having the highest priority."

13 TITLE V—LOANS TO SMALL-BUSINESS INVEST-
14 MENT ASSOCIATIONS ESTABLISHED TO MAKE
15 EQUITY-TYPE FINANCING AVAILABLE TO
16 SMALL-BUSINESS CONCERNS

17 SEC. 501. Section 207 of the Small Business Act is
18 hereby amended by adding the following new subsection:

19 "(e) The Administration is also empowered to make
20 loans evidenced by debentures, promissory notes, or other
21 obligations, to small-business investment associations, char-
22 tered under State law, or in the absence of appropriate
23 enabling legislation chartered by the Administration, estab-

1 lished to provide funds for small-business concerns upon the
2 following conditions:
3 "(1) The qualifications and activities of small-business
4 investment associations must meet criteria established by the
5 Administration which shall include the following:
6 "(A) The minimum paid-in capital for any such asso-
7 ciation shall be $100,000.
8 "(B) The minimum number of shareholders for any
9 such association shall be ten.
10 "(C) The charter of any such association must be ap-
11 proved by the Administration and the association must meet
12 requirements for financial reporting, auditing, and examina-
13 tion, as may be established by the Administration.
14 "(D) Any such association shall be authorized to ad-
15 vance funds to small-business concerns only, through loans
16 evidenced by convertible debentures, such debentures to be
17 convertible at the option of the association or a holder in
18 due course up to and including the effective date of any call
19 by the issuer, into stock of the small-business concern at
20 the sound book value of such stock determined at the time
21 of the issuance of the debenture.
22 "(E) The association shall make investments only in

1 small-business concerns within the criteria established by the
2 Administration. The maximum investment by the associa-
3 tion in any small-business concern shall not exceed either 20
4 per centum of the association's paid-in capital and surplus,
5 or $250,000, whichever is less.

6 "(F) The amount of the investment of an association
7 in the stock of small-business concerns, acquired by conver-
8 sion of debentures, shall not exceed the total of the paid-in
9 capital and surplus of the association, except with the ap-
10 proval of the Administrator.

11 "(G) The association shall require each small-business
12 concern to which it makes a loan using funds provided under
13 this subsection to purchase stock of the association in an
14 amount equal to 5 per centum of such loan.

15 "(2) The loans to investment associations by the Ad-
16 ministration shall be subject to the following requirements:

17 "(A) The total amount of loans outstanding at any one
18 time by the Administration in any one investment associa-
19 tion shall not exceed an amount equal to two times the
20 paid-in capital and surplus of the association.

21 "(B) Loans made by the Administration under this
22 subsection may be on an amortized or unamortized basis
23 and shall bear interest at a rate not in excess of 6 per centum
24 per annum and shall have a maturity of not more than ten
25 years: *Provided,* That the Administration may further ex-

1 tend the maturity of or renew any such loan beyond the
2 period stated therein for additional periods not to exceed
3 ten years if such extension or renewal will aid in the orderly
4 liquidation of such loan.

5 "(3) No financial assistance shall be extended by the
6 Administration pursuant to this subsection if it will cause
7 a relocation of all or a part of a small-business concern so
8 as to effect a significant reduction in employment in
9 the general area of original location or will provide facilities
10 to be made available to a small-business concern at a subsidy
11 to induce any relocation or will aid any relocation for other
12 than a sound business purpose approved by the Adminis-
13 trator.

14 "(4) The Administration shall require that no financial
15 assistance shall be extended pursuant to this subsection by
16 an association to a small-business concern unless the financial
17 assistance applied for is not otherwise available from private
18 sources on reasonable terms.

19 "(5) (A) The Administration is authorized to prescribe
20 regulations governing the operations of small-business invest-
21 ment associations and to carry out the provisions of this Act
22 in accordance with the purposes of this Act. Each small-busi-
23 ness investment association shall be subject to examinations
24 made by direction of the Administration by examiners se-
25 lected or approved by the Administration, and the cost of

1 such examinations, including the compensation of the exam-
2 iners, may in the discretion of the Administration be assessed
3 against the association examined and when so assessed shall
4 be paid by such association. Every such association shall
5 make such reports to the Administration at such times and
6 in such form as the Administration may require.

7 "(B) Should any small-business investment association
8 violate or fail to comply with any of the provisions of this
9 Act or of regulations prescribed hereunder, all of its rights,
10 privileges, benefits, and franchises derived herefrom may
11 thereby be forfeited; and, without limitation, the Adminis-
12 tration shall thereupon have the option of taking such action
13 as it deems necessary or appropriate in connection with any
14 outstanding Administration loan or loans to any such as-
15 sociation, consistent with existing law and any rights of
16 others. Before any association chartered by the Administra-
17 tion shall be declared dissolved, and its rights, privileges,
18 and franchises forfeited, any noncompliance with or viola-
19 tion of this Act shall, however, be determined and adjudged
20 by a court of the United States of competent jurisdiction in
21 a suit brought for that purpose in the district, territory, or
22 other place subject to the jurisdiction of the United States,
23 in which the principal office of such association is located,
24 which suit shall be brought by the United States at the
25 instance of the Administration or the Attorney General.

1 "(C) Whenever in the judgment of the Administration
2 any person has engaged or is about to engage in any acts
3 or practices which constitute or will constitute a violation
4 of any provision of this Act or of any regulation thereunder,
5 the Administration may make application to the proper
6 district court of the United States, or the United States
7 courts of any Territory or other place subject to the juris-
8 diction of the United States, for an order enjoining such
9 acts or practices, or for an order enforcing compliance with
10 such provision, and such courts shall have jurisdiction of
11 such actions and upon a showing by the Administration that
12 such person has engaged or is about to engage in any such
13 acts or practices a permanent or temporary injunction, re-
14 straining order, or other order, shall be granted without
15 bond."

16 TITLE VI—ESTABLISHMENT OF SMALL-BUSINESS
17 INVESTMENT ASSOCIATIONS

18 SEC. 601. Section 207 (b) of the Small Business Act
19 is amended by adding the following additional subsection
20 (6):

21 "(6) to charter a small-business investment asso-
22 ciation for the purpose of operating under this Act,
23 formed by not less than ten persons who shall subscribe
24 to the articles of incorporation of any such association.

1 "The articles of incorporation of any such associa-
2 tion shall specify in general terms the objects for which
3 the association is formed, the name assumed by such
4 association, the area or areas where its operations are
5 to be carried on, the place where its principal office is
6 to be located, and the amount and classes of its shares
7 of capital stock; and the articles may contain any other
8 provisions not inconsistent with this Act that the asso-
9 ciation may see fit to adopt for the regulation of its
10 business and the conduct of its affairs. Such articles and
11 any amendments thereto adopted from time to time
12 shall be subject to the approval of the Administration.
13 "The articles of incorporation and amendments
14 thereto shall be forwarded to the Administration for con-
15 sideration and approval or disapproval. In determining
16 whether to approve the establishment of such an asso-
17 ciation and its proposed articles of incorporation, the
18 Administration shall give due regard, among other
19 things, to the need for the financing of independent
20 small-business enterprises in the area in which the pro-
21 posed association is to commence business, the general
22 character of the proposed management of the association,
23 the number of such associations previously organized in
24 the United States, and the volume of their operations.
25 After consideration of all relevant factors, the Adminis-

1 tration may in its discretion approve the articles of in-
2 corporation and issue a permit to begin business.
3 "Upon issuance of such permit, the association shall
4 become and be a body corporate, and as such, and in
5 the name designated in its articles, shall have power—
6 "(A) to adopt and use a corporate seal;
7 "(B) to have succession for a period of thirty
8 years, unless sooner dissolved by the act of the
9 shareholders owning two-thirds of the stock or by
10 an Act of Congress, or unless its franchise becomes
11 forfeited by some violation of law or regulation
12 issued hereunder;
13 "(C) to make contracts;
14 "(D) to sue and be sued, complain, and defend
15 in any court of law or equity;
16 "(E) by its board of directors, to appoint such
17 officers and employees as may be deemed proper,
18 define their authority and duties, fix their compen-
19 sation, require bonds of such of them as it deems
20 advisable and fix the penalty thereof, dismiss such
21 officers or employees, or any thereof, at pleasure
22 and appoint others to fill their places;
23 "(F) to adopt bylaws regulating the manner
24 in which its stock shall be transferred, its officers
25 and employees appointed, its property transferred,

1 and the privileges granted to it by law exercised
2 and enjoyed;
3 "(G) to acquire, hold, operate, and dispose of
4 any property (real, personal, or mixed) whenever
5 necessary or appropriate to the carrying out of its
6 lawful functions;
7 "(H) to operate in such area or areas as may
8 be specified in its articles of incorporation and ap-
9 proved by the Administration; and
10 "(I) to exercise the other powers set forth in
11 this Act and such incidental powers as may be
12 reasonably necessary to carry on the business for
13 which the association is established.
14 "The board of directors of each small-business in-
15 vestment association shall consist of not less than five
16 members and not more than nine members all of whom
17 shall be elected annually by the holders of the shares
18 of stock of the association."

19 TITLE VII—EXEMPTIONS FROM SECURITIES
20 AND INVESTMENT COMPANY ACTS

21 SEC. 701. Section 3 of the Securities Act of 1933
22 (15 U. S. C. sec. 77c), is amended by adding at the end
23 of subsection (a) thereof, the following new paragraph:
24 "(12) Any security issued by a small-business invest-

1 ment association chartered or operating under the Small
2 Business Capital Act of 1958."
3 SEC. 702. Any small-business investment association
4 chartered or operating under the Small Business Capital Act
5 of 1958, is exempt from the provisions of the Investment
6 Company Act of 1940.

7 TITLE VIII—AMENDMENTS TO INTERNAL
8 REVENUE CODE OF 1954

9 SEC. 801. (a) Section 165 of the Internal Revenue
10 Code of 1954 (relating to deduction for losses) is amended
11 by adding at the end of subsection (h) the following new
12 paragraphs:
13 "(3) For special rule for losses on stock in a small-
14 business investment association, see section 1242.
15 "(4) For special rule for losses of a small-business
16 investment association, see section 1243."
17 (b) Subchapter (P) of the Internal Revenue Code of
18 1954 is amended by adding at the end thereof the following
19 new sections:
20 **"SEC. 1242. LOSSES ON SMALL-BUSINESS INVESTMENT**
21 **ASSOCIATION STOCK.**
22 "In the case of a taxpayer if—
23 "(1) A loss is on stock in a small-business invest-

1 ment association as defined in section 207 of the Small
2 Business Act of 1953, as amended, and
3 "(2) Such loss would (but for this section) be
4 treated as a loss from the sale or exchange of a capital
5 asset,
6 then such loss shall be treated as a loss from the sale or
7 exchange of an asset which is not a capital asset.
8 **"SEC 1243. LOSS OF SMALL-BUSINESS INVESTMENT ASSO-**
9 **CIATION.**
10 "In the case of a small-business investment association,
11 if—
12 "(1) A loss is on convertible debentures (including
13 stock received pursuant to the conversion privilege)
14 acquired pursuant to section 207 of the Small Business
15 Act of 1953, as amended, and
16 "(2) Such loss would (but for this section) be
17 treated as a loss from the sale or exchange of a capital
18 asset,
19 then such loss shall be treated as a loss from the sale or ex-
20 change of an asset which is not a capital asset."
21 (c) Section 243 of the Internal Revenue Code of 1954
22 (relating to dividends received by corporations) is amended
23 as follows:
24 (1) By striking from subsection (a) the following
25 language "In the case of a corporation" and inserting

in lieu thereof the following language "In the case of a corporation (other than a small-business investment association as defined in the Small Business Act of 1953, as amended)."

(2) By adding at the end thereof the following new subsection:

"(c) SMALL-BUSINESS INVESTMENT ASSOCIATION.—In the case of a small-business investment association, there shall be allowed as a deduction an amount equal to 100 per centum of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter."

(d) Section 246 (b) (1) is amended by striking "243" wherever appearing and inserting in lieu thereof "243 (a) and (b)".

TITLE IX—REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

SEC. 901. Effective one year after the date of enactment of this Act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under

1 that section. Within sixty days after the enactment of this
2 Act, each Federal Reserve bank shall pay to the United
3 States the aggregate amount which the Secretary of the
4 Treasury has heretofore paid to such bank under the pro-
5 visions of section 13b of the Federal Reserve Act; and such
6 payment shall constitute a full discharge of any obligation or
7 liability of the Federal bank to the United States or to the
8 Secretary of the Treasury arising out of subsection (e) of
9 said section 13b or out of any agreement thereunder. The
10 amounts repaid to the United States pursuant to this section
11 and any remaining balance of the funds set aside in the
12 Treasury for payments under section 13b of the Federal
13 Reserve Act shall be covered into miscellaneous receipts.

85TH CONGRESS
2D SESSION

S. 3643

A BILL

To provide financial assistance to small-business concerns through private (local) or State development credit corporations; to establish small-business investment associations; to make equity-type capital available through funds provided by the Small Business Administration; and for other purposes.

By Mr. THYE, Mr. PAYNE, Mr. ALLOTT, Mr. BEALL, Mr. MUNDT, Mr. CARLSON, Mr. JAVITS, and Mr. YOUNG

APRIL 21, 1958

Read twice and referred to the Committee on Banking and Currency

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

APRIL 21, 1958

Mr. JOHNSON of Texas (for himself, Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CLARK, Mr. PROXMIRE, Mr. HILL, Mr. O'MAHONEY, Mr. HUMPHREY, Mr. BEALL, Mr. CASE of New Jersey, Mr. PAYNE, and Mr. STENNIS) introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—SHORT TITLE, STATEMENT OF PUR-
4 POSE, AND DEFINITIONS

5 SHORT TITLE

6 SEC. 101. This Act, divided into titles and sections
7 according to the following table of contents, may be cited as
8 the "Small Business Investment Administration Act of
9 1958".

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS POLICY BOARD

Sec. 201. Establishment of Board.
Sec. 202. Functions of the Board.

TITLE III—SMALL BUSINESS INVESTMENT ADMINISTRATION

Sec. 301. Organization of Small Business Investment Administration.
Sec. 302. Administrator.
Sec. 303. Powers of Administrator.
Sec. 304. Deposit of funds and civil-service contributions.
Sec. 305. Provision of funds.
Sec. 306. Purposes of revolving fund.

TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 401. Organization of small business investment companies.
Sec. 402. Capital-stock provisions.
Sec. 403. Borrowing power.
Sec. 404. Provision of equity capital for small-business concerns.
Sec. 405. Long-term loans to small-business concerns.
Sec. 406. Aggregate limitations.
Sec. 407. Exemptions.
Sec. 408. Tax provisions.
Sec. 409. Miscellaneous.

TITLE V—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES

TITLE VI—STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VII—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 701. Repeal of section 13b of Federal Reserve Act.
Sec. 702. Return of funds to Treasury.
Sec. 703. Authority to sell assets to small business investment companies.

TITLE VIII—CRIMINAL PENALTIES

1 STATEMENT OF POLICY

2 SEC. 102. It is declared to be the policy of the Congress
3 and the purpose of this Act to improve and stimulate the
4 national economy in general and the small-business segment
5 thereof in particular by establishing a program to stimulate

1 and supplement the flow of private equity capital and long-
2 term loan funds which small-business concerns need for the
3 sound financing of their business operations and for their
4 growth, expansion, and modernization.

5 DEFINITIONS

6 SEC. 103. (a) As used in this Act—

7 (1) the term "Board" means the Small Business
8 Policy Board established by section 201;

9 (2) the term "Administration" means the Small
10 Business Investment Administration established by
11 section 301;

12 (3) the term "Administrator" means the Adminis-
13 trator of the Small Business Investment Administration
14 as provided in section 302;

15 (4) the term "company" means a small business
16 investment company organized as provided in title IV;

17 (5) the term "United States" means the several
18 States, the Territories of Alaska and Hawaii, the Dis-
19 trict of Columbia, and the Commonwealth of Puerto
20 Rico;

21 (6) the term "small-business concern" means a
22 business concern, incorporated or unincorporated, which
23 is not dominant in a well-established industry or line of
24 business, and which meets the more detailed standards

1 and criteria prescribed by the Board under section
2 202 (c).
3 (7) the term "investment companies" means in-
4 vestment companies as defined in section 3 of the In-
5 vestment Company Act of 1940 which are subject to
6 the provisions of that Act; and
7 (8) the term "State and local development com-
8 panies" means enterprises incorporated under State law
9 with the authority to promote and assist the growth
10 and development of small business concerns in the areas
11 covered by their operations.

12 TITLE II—SMALL BUSINESS POLICY BOARD

13 ESTABLISHMENT OF BOARD

14 SEC. 201. There is hereby created the Small Business
15 Policy Board, which shall consist of the following members,
16 all ex officio: The Secretary of the Treasury, the Secretary
17 of Commerce, the Administrator of the Small Business Ad-
18 ministration, and the Administrator of the Small Business
19 Investment Administration. The President shall rotate the
20 chairmanship of the Board once each year between the Small
21 Business Administrator and the Small Business Investment
22 Administrator. Either of the said Secretaries may designate
23 an officer of his Department, who has been appointed by
24 the President by and with the advice and consent of the

1 Senate, to act in his stead as a member of the Board with
2 respect to any matter or matters.

3 FUNCTIONS OF THE BOARD

4 SEC. 202. (a) The Board shall establish general pol-
5 icies (particularly with reference to the public interest in-
6 volved) governing the approval and disapproval of appli-
7 cations for financial assistance by the Small Business
8 Administration and the Small Business Investment Admin-
9 istration.

10 (b) The Board shall coordinate the activities of the
11 Small Business Administration and the Small Business In-
12 vestment Administration, and shall coordinate their activities
13 with other activities and policies of the Government.

14 (c) As soon as practicable after the date of the enact-
15 ment of this Act, the Board shall prescribe detailed standards
16 and criteria for the definition or definitions of the term
17 "small-business concern", as used in this Act and in the
18 Small Business Act of 1953, as amended, which standards
19 and criteria may be based upon, but shall not be limited to,
20 such things as number of employees, assets, volume of sales,
21 and other factors related to the concern's relative position in
22 its industry or line of business.

23 (d) The Board shall promulgate standards to deter-
24 mine the eligibility of small-business concerns for the assist-

1 ance provided by this Act and by the Small Business Act
2 of 1953, as amended. In promulgating such standards,
3 which may differ according to the type of assistance involved
4 and any other relevant factors, the Board shall give con-
5 sideration to—

6 (1) the need to promote the development and
7 growth of small-business concerns so as to enable them
8 to make their maximum contribution to productive
9 investment and employment and to the economic stability
10 and growth of the Nation;

11 (2) the need to make capital for such concerns
12 more readily available in adequate amounts and on rea-
13 sonable terms;

14 (3) the need to facilitate maximum participation
15 of private financial institutions and investors in financ-
16 ing these concerns; and

17 (4) the need to supplement the existing facilities of
18 banks and other private financial institutions through the
19 program of assistance provided under this Act.

20 (e) Section 203 of the Small Business Act of 1953, as
21 amended, is hereby amended to read as follows:

22 "For the purposes of this title, a small-business concern
23 means a business concern, incorporated or unincorporated,
24 which is not dominant in a well-established industry or line

1 of business, and which meets the more detailed standards and
2 criteria prescribed by the Small Business Policy Board es-
3 tablished by the Small Business Investment Administration
4 Act of 1958."

5 (f) Section 204 (d) of the Small Business Act of 1953,
6 as amended, is hereby repealed.

7 TITLE III—SMALL BUSINESS INVESTMENT
8 ADMINISTRATION

9 ORGANIZATION OF SMALL BUSINESS INVESTMENT
10 ADMINISTRATION

11 SEC. 301. There is hereby created an independent
12 agency of the United States Government to be known as
13 the Small Business Investment Administration. The princi-
14 pal office of the Administration shall be located in the Dis-
15 trict of Columbia, but the Administration may establish such
16 branch and regional offices in the United States as may
17 be determined by the Administrator.

18 ADMINISTRATOR

19 SEC. 302. The management of the Administration shall
20 be vested in an Administrator appointed by the President
21 by and with the advice and consent of the Senate. The
22 Administrator shall receive compensation at the rate of
23 $20,000 per annum. In addition to receiving such com-
24 pensation, the Administrator shall be reimbursed for neces-

1 sary traveling and subsistence expenses, or paid a per diem
2 allowance in lieu thereof within the limits prescribed by law,
3 while away from his official station upon official business.

4 POWERS OF ADMINISTRATOR

5 SEC. 303. (a) The Administrator shall have power to
6 adopt, alter, and use a seal, which shall be judicially noticed.
7 The Administrator is authorized, subject to the civil-service
8 and classification laws, to select, employ, appoint, and fix
9 the compensation of such officers, employees, attorneys, and
10 agents as shall be necessary to carry out the provisions of
11 this Act, to define their authority and duties, to provide
12 bonds for them in such amounts as the Administrator shall
13 determine, and to pay the costs of qualification of certain of
14 them as notaries public. The Administration, with the con-
15 sent of any board, commission, independent agency (par-
16 ticularly the Small Business Administration), or executive
17 department of the Government, may avail itself on a reim-
18 bursable basis of the use of information, services, facilities,
19 including any field service thereof, officers, and employees
20 thereof, in carrying out the provisions of this title. Subject
21 to the standards and procedures under section 505 of the
22 Classification Act of 1949, as amended, not to exceed fifteen
23 positions in the Small Business Investment Administration
24 may be placed in grades 16, 17, and 18 of the General Sched-

1 ule established by that Act, and any such positions shall be
2 additional to the number authorized by such section.
3 (b) In the performance of, and with respect to, the
4 functions, powers, and duties vested in him by this title,
5 the Administrator may—
6 (1) sue and be sued in any court of record of a
7 State having general jurisdiction, or in any United
8 States district court, and jurisdiction is conferred upon
9 such district court to determine such controversies with-
10 out regard to the amount in controversy: *Provided,*
11 That no attachment, injunction, garnishment, or other
12 similar process, mesne or final, shall be issued against
13 the Administrator or his property;
14 (2) under regulations prescribed by him, assign or
15 sell at public or private sale, or otherwise dispose of
16 for cash or credit, in his discretion and upon such terms
17 and conditions and for such consideration as the Admin-
18 istrator shall determine to be reasonable, any evidence
19 of debt, contract, claim, personal property, or security
20 assigned to or held by him in connection with the pay-
21 ment of loans granted under this Act, and to collect or
22 compromise all obligations assigned to or held by him
23 and all legal or equitable rights accruing to him in con-

1 nection with the payment of such loans until such time
2 as such obligation may be referred to the Attorney Gen-
3 eral for suit or collection;
4 (3) deal with, complete, renovate, improve, mod-
5 ernize, insure, or rent, or sell for cash or credit upon
6 such terms and conditions and for such consideration as
7 the Administrator shall determine to be reasonable, any
8 real property conveyed to or otherwise acquired by
9 him in connection with the payment of loans granted
10 under this Act;
11 (4) pursue to final collection, by way of compro-
12 mise or otherwise, all claims against third parties as-
13 signed to the Administrator in connection with loans
14 made by him. This shall include authority to obtain
15 deficiency judgments or otherwise in the case of mort-
16 gages assigned to the Administrator. Section 3709 of
17 the Revised Statutes, as amended (41 U. S. C. 5),
18 shall not be construed to apply to any contract of haz-
19 ard insurance or to any purchase or contract for services
20 or supplies on account of property obtained by the Ad-
21 ministrator as a result of loans made under this Act if
22 the premium therefor or the amount thereof does not
23 exceed $1,000. The power to convey and to execute
24 in the name of the Administrator deeds of conveyance,
25 deeds of release, assignments and satisfactions of mort-

1 gages, and any other written instrument relating to real
2 property or any interest therein acquired by the Admin-
3 istrator pursuant to the provisions of this Act may be
4 exercised by the Administrator or by any officer or
5 agent appointed by him without the execution of any
6 express delegation of power or power of attorney.
7 Nothing in this section shall be construed to prevent the
8 Administrator from delegating such power by order or
9 by power of attorney, in his discretion, to any officer or
10 agent he may appoint;

11 (5) acquire, in any lawful manner, any property
12 (real, personal, or mixed, tangible or intangible), when-
13 ever deemed necessary or appropriate to the conduct
14 of the activities authorized in this Act;

15 (6) make such rules and regulations as he deems
16 necessary to carry out the authority vested in him by
17 or pursuant to this title; and

18 (7) in addition to any powers, functions, privileges,
19 and immunities otherwise vested in him, take any and
20 all actions, including the procurement of the services of
21 attorneys by contract, determined by him to be neces-
22 sary or desirable in making, servicing, compromising,
23 modifying, liquidating, or otherwise dealing with or
24 realizing on loans made under the provisions of this
25 Act: *Provided*, That no attorneys' services shall be pro-

1 cured by contract in any office where an attorney or
2 attorneys are or can be economically employed full
3 time to render such services.

4 (c) To such extent as he finds necessary to carry out
5 the provisions of this Act, the Administrator is hereby au-
6 thorized to procure the temporary (not in excess of six
7 months) service of experts or consultants or organizations
8 thereof, including stenographic reporting services, by con-
9 tract or appointment, and in such cases such services shall
10 be without regard to the civil-service and classification laws,
11 and, except in the case of stenographic reporting services
12 by organizations, without regard to section 3709, Revised
13 Statutes, as amended (41 U. S. C. 5). Any individual so
14 employed may be compensated at a rate not in excess of
15 $50 per diem, and, while such individual is away from his
16 home or regular place of business, he may be allowed trans-
17 portation and not to exceed $15 per diem in lieu of sub-
18 sistence and other expenses.

19 DEPOSIT OF FUNDS AND CIVIL SERVICE CONTRIBUTIONS

20 SEC. 304. (a) All moneys of the Administration not
21 otherwise employed may be deposited with the Treasurer of
22 the United States subject to check by authority of the Ad-
23 ministration. The Federal Reserve banks are authorized and
24 directed to act as depositaries, custodians, and fiscal agents
25 for the Administration in the general performance of its

1 powers conferred by this title. Any banks insured by the
2 Federal Deposit Insurance Corporation, when designated by
3 the Secretary of the Treasury, shall act as custodians and fi-
4 nancial agents for the Administration. Each Federal Re-
5 serve bank, when designated by the Administrator as fiscal
6 agent for the Administration, shall be entitled to be reim-
7 bursed for all expenses incurred as such fiscal agent.

8 (b) The Administration shall contribute to the civil-
9 service retirement and disability fund, on the basis of annual
10 billings as determined by the Civil Service Commission, for
11 the Government's share of the cost of the civil-service retire-
12 ment system applicable to the employees engaged in carry-
13 ing out the functions of this Act. The Administration shall
14 also contribute to the employees' compensation fund, on the
15 basis of annual billings as determined by the Secretary of
16 Labor, for the benefit payments made from such fund on
17 account of employees engaged in carrying out the functions
18 financed by such revolving fund. The annual billings shall
19 also include a statement of the fair portion of the cost of the
20 administration of the respective funds, which shall be paid
21 by the Administration into the Treasury as miscellaneous
22 receipts.

23 PROVISION OF FUNDS

24 SEC. 305. (a) In order to finance activities as provided
25 in section 306, the Administration is authorized and em-

1 powered to issue to the Secretary of the Treasury notes and
2 other obligations in an amount not exceeding $250,000,000
3 outstanding at any one time: *Provided,* That the total
4 amount of such obligations which may be outstanding dur-
5 ing the first year after enactment shall not exceed $50,000,-
6 000, and during the second year after enactment shall not
7 exceed $150,000,000. Such obligations shall be in such
8 forms and denominations have such maturities, and be sub-
9 ject to such terms and conditions as may be prescribed by
10 the Administration, with the approval of the Secretary of
11 the Treasury. Such notes or other obligations shall bear
12 interest at a rate determined by the Secretary of the Treas-
13 ury which shall not be more than the current average yields
14 on outstanding marketable obligations of the United States
15 of comparable maturities as of the last day of the month
16 preceding the issuance of such notes or other obligations.
17 The Secretary of the Treasury is authorized and directed
18 to purchase any notes and other obligations of the Adminis-
19 tration issued hereunder and for such purpose the Secretary
20 of the Treasury is authorized to use as a public debt trans-
21 action the proceeds from the sale of any securities issued
22 under the Second Liberty Bond Act, as amended, and the
23 purposes for which securities may be issued under such Act,

1 as amended, are extended to include any purchases of such
2 notes and obligations. The Secretary of the Treasury may
3 at any time sell any of the notes or other obligations ac-
4 quired by him under this section. All redemptions, pur-
5 chases, and sales by the Secretary of the Treasury of such
6 notes or other obligations shall be treated as public debt
7 transactions of the United States.

8 (b) Funds borrowed under this section and any pro-
9 ceeds shall constitute a revolving fund which may be used
10 by the Administration in the exercise of its functions under
11 this Act.

12 (c) There are hereby authorized to be appropriated such
13 sums as may be necessary and appropriate for the adminis-
14 trative expenses of the Administration.

15 PURPOSES OF REVOLVING FUND

16 SEC. 306. The Administration is authorized to use its
17 revolving fund—

18 (1) to invest in small business investment com-
19 panies as provided in section 404;

20 (2) to make loans to small business investment
21 companies as provided in section 405; and

22 (3) to make loans to State and local development
23 companies as provided in section 601.

TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 401. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons not less than five, who shall subscribe to the articles of incorporation of any such company.

(b) The articles of incorporation of any small-business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas where its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock; and the articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration

1 shall give due regard, among other things, to the need for
2 the financing of small-business concerns in the area in which
3 the proposed company is to commence business, the general
4 character of the proposed management of the company, the
5 number of such companies previously organized in the
6 United States, and the volume of their operations. After
7 consideration of all relevant factors, the Administration may
8 in its discretion approve the articles of incorporation and
9 issue a permit to begin business.

10 (d) Upon issuance of such permit, the company shall
11 become and be a body corporate, and as such, and in the
12 name designated in its articles, shall have power—

13 (1) to adopt and use a corporate seal;

14 (2) to have succession for a period of thirty years,
15 unless extended as provided in section 409 (f), or
16 unless sooner dissolved by the act of the shareholders
17 owning two-thirds of the stock or by an Act of Congress,
18 or unless its franchise becomes forfeited by some viola-
19 tion of law or regulation issued hereunder;

20 (3) to make contracts;

21 (4) to sue and be sued, complain, and defend in
22 any court of law or equity;

23 (5) by its board of directors, to appoint such offi-
24 cers and employees as may be deemed proper, define

1 their authority and duties, fix their compensation, re-
2 quire bonds of such of them as it deems advisable and
3 fix the penalty thereof, dismiss such officers or em-
4 ployees, or any thereof, at pleasure, and appoint others
5 to fill their places;

6 (6) to adopt bylaws regulating the manner in
7 which its stock shall be transferred, its officers and
8 employees appointed, its property transferred, and the
9 privileges granted to it by law exercised and enjoyed;

10 (7) to establish branch offices or agencies subject
11 to the approval of the Administration;

12 (8) to acquire, hold, operate, and dispose of any
13 property (real, personal, or mixed) whenever necessary
14 or appropriate to the carrying out of its lawful functions;

15 (9) to act as depository or fiscal agent of the United
16 States when so designated by the Secretary of the
17 Treasury;

18 (10) to operate in such area or areas as may be
19 specified in its articles of incorporation and approved
20 by the Administration; and

21 (11) to exercise the other powers set forth in this
22 Act and such incidental powers as may be reasonably
23 necessary to carry on the business for which the company
24 is established.

25 (e) The board of directors of each small-business invest-

1 ment company shall consist of nine members, all of whom
2 shall be elected annually by the holders of the shares of
3 stock of the company.

4 CAPITAL-STOCK PROVISIONS

5 SEC. 402. (a) Each company organized under this Act
6 shall have a paid-in capital and surplus equal to at least
7 $500,000 before it shall commence business. In order to
8 facilitate the formation of small-business investment com-
9 panies, the Administration is hereby authorized, notwith-
10 standing any other provisions of law, to invest in the shares
11 of stock of such companies in an amount equal to not more
12 than $250,000.

13 (b) The shares of stock in any small-business invest-
14 ment company shall be eligible for purchase by member
15 banks of the Federal Reserve System, nonmember insured
16 banks, financial institutions, insurance companies, corpora-
17 tions, partnerships, or other persons. In no event shall any
18 member bank of the Federal Reserve System or any non-
19 member insured bank hold such shares in small business
20 investment companies in an amount aggregating more than
21 1 percent of the capital and surplus of such bank. Upon
22 application of any such eligible purchaser, the Administra-
23 tion shall sell to such purchaser all or a portion of such
24 shares it may hold in a company.

25 (c) The aggregate amount of shares in any such com-

1 pany or companies which may be owned or controlled by
2 any stockholder, or by any group or class of stockholders,
3 may be limited by the Administration.

4 BORROWING POWER

5 SEC. 403. (a) Each small-business investment company
6 shall have authority to borrow money and to issue its
7 debenture bonds, promissory notes, or other obligations under
8 such general conditions and subject to such limitations and
9 regulations as the Administration may prescribe.

10 (b) To encourage the formation and growth of small-
11 business investment companies, the Administration is
12 authorized to lend funds to such companies through the
13 purchase of their obligations which shall bear interest at a
14 rate, and contain such other terms, as the Administration
15 may fix. The total amount of obligations purchased and
16 outstanding at any one time by the Administration in any
17 one company shall not exceed 50 percent of the paid-in
18 capital and surplus of such company.

19 PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS
20 CONCERNS

21 SEC. 404. (a) It shall be a primary function of each
22 small-business investment company to provide a source of
23 needed equity capital for small-business concerns which
24 meet the standards of eligibility promulgated by the Board

1 under section 202, in the manner and subject to the con-
2 ditions described in this section.

3 (b) Capital shall be provided by a company to a small-
4 business concern only through the purchase of debenture
5 bonds (of such concern) which shall—

6 (1) bear interest at such rate, and contain such
7 other terms, as the company may fix with the approval
8 of the Administration;

9 (2) be callable on any interest payment date, upon
10 three months' notice, at par plus accrued interest; and

11 (3) be convertible on any interest payment date
12 prior to maturity (unless previously called), at the op-
13 tion of the company, into stock of such concern at the
14 sound book value of such stock determined at the time of
15 the issuance of the debenture bonds.

16 (c) Before any capital is provided to a small-busi-
17 ness concern under this section—

18 (1) the company may require such concern to re-
19 finance any or all of its outstanding indebtedness so
20 that the company is the only holder of any evidence of
21 indebtedness of such concern; and

22 (2) except as provided in regulations issued by
23 the Administration, such concern shall agree that it will
24 not thereafter incur any indebtedness without first se-

1 curing the approval of the company and giving the
2 company the first opportunity to finance such indebted-
3 ness.

4 (d) Whenever a company provides capital to a small-
5 business concern under this section, such concern shall be
6 required to become a stockholder-proprietor of the company
7 by investing in the capital stock of the company in an
8 amount equal to not less than 2 percent nor more than
9 5 percent of the amount of the capital so provided, as
10 prescribed by the Administration.

11 LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

12 SEC. 405. (a) Each company is authorized to make
13 loans, in the manner and subject to the conditions described
14 in this section, to incorporated and unincorporated small-
15 business concerns which meet the standards of eligibility
16 promulgated by the Board under section 202 in order to
17 provide such concerns with funds needed for sound financing,
18 growth, modernization, and expansion.

19 (b) Loans made under this section may be made
20 directly, or in cooperation with other lending institutions
21 through agreements to participate on an immediate or
22 deferred basis.

23 (c) The maximum rate of interest for the company's
24 share of any loan made under this section shall be deter-
25 mined by the Administration.

1 (d) Loans made under this section shall have a maturity
2 not exceeding thirty years.
3 (e) All loans made under this section shall be of such
4 sound value, or so secured, as reasonably to assure repay-
5 ment.
6 (f) Any company which has made a loan to a small-
7 business concern under this section is authorized to extend
8 the maturity of or renew such loan for additional periods not
9 exceeding ten years if the company finds that such extension
10 or renewal will aid in the orderly liquidation of such loan.

11 AGGREGATE LIMITATIONS

12 SEC. 406. Without the approval of the Administration,
13 the aggregate amount of obligations and securities acquired
14 and for which commitments may be issued by any small
15 business investment company under the provisions of this
16 Act for any single enterprise shall not exceed 33⅓ percent of
17 the combined capital and surplus of such small business in-
18 vestment company authorized by this Act.

19 EXEMPTIONS

20 SEC. 407. (a) Section 3 of the Securities Act of 1933, as
21 amended (15 U. S. C. 77C), is hereby amended by insert-
22 ing at the end thereof the following new subsection (c):
23 "(c) The Commission may from time to time by its
24 rules and regulations, and subject to such terms and condi-
25 tions as may be prescribed therein, add to the securities

1 exempted as provided in this section any class of securities
2 issued by a small business investment company under the
3 Small Business Investment Administration Act of 1958 if
4 its finds, having regard to the purposes of that Act, that the
5 enforcement of this Act with respect to such securities is not
6 necessary in the public interest and for the protection of
7 investors."

8 (b) Section 304 of the Trust Indenture Act of 1939
9 (15 U. S. C. 77 ddd) is hereby amended by adding the
10 following subsection (e):

11 "(e) The Commission may from time to time by its
12 rules and regulations, and subject to such terms and condi-
13 tions as may be prescribed herein, add to the securities
14 exempted as provided in this section any class of securities
15 issued by a small business investment company under the
16 Small Business Investment Administration Act of 1958 if
17 it finds, having regard to the purposes of that Act, that the
18 enforcement of this Act with respect to such securities is not
19 necessary in the public interest and for the protection of
20 investors."

21 TAX PROVISIONS

22 SEC. 408. (a) Section 165 of the Internal Revenue
23 Code of 1954 (relating to deduction for losses) is amended

1 by adding at the end of subsection (h) the following new
2 paragraphs:

"(3) For special rule for losses on stock in a small business investment company, see section 1242.
"(4) For special rule for losses of a small business investment company, see section 1243."

3 (b) Subchapter (P) of the Internal Revenue Code of
4 1954 is amended by adding at the end thereof the following
5 new sections:

6 **"SEC. 1242. LOSSES ON SMALL BUSINESS INVESTMENT**
7 **COMPANY STOCK.**

8 "In the case of a taxpayer if—
9 "(1) A loss is on stock in a small business invest-
10 ment company as organized under title IV of the Small
11 Business Investment Administration Act of 1958, and
12 "(2) Such loss would (but for this section) be
13 treated as a loss from the sale or exchange of a capital
14 asset,
15 then such loss shall be treated as a loss from the sale or
16 exchange of an asset which is not a capital asset.

17 **"SEC. 1243. LOSS OF SMALL BUSINESS INVESTMENT COM-**
18 **PANY.**

19 "In the case of a small business investment company,
20 if—

1 "(1) A loss is on convertible debentures (including
2 stock received pursuant to the conversion privilege)
3 acquired pursuant to section 404 of the Small Business
4 Investment Administration Act of 1958, and
5 "(2) Such loss would (but for this section) be
6 treated as a loss from the sale or exchange of a capital
7 asset,
8 then such loss shall be treated as a loss from the sale or ex-
9 change of an asset which is not a capital asset."
10 (c) Section 243 of the Internal Revenue Code of 1954
11 (relating to dividends received by corporations) is amended
12 as follows:
13 (1) by striking from subsection (a) the following
14 language "In the case of a corporation" and inserting
15 in lieu thereof the following language "In the case of
16 a corporation (other than a small business investment
17 company as defined in the Small Business Investment
18 Administration Act of 1958)."
19 (2) By adding at the end thereof the following
20 new subsection:
21 "(c) SMALL BUSINESS INVESTMENT COMPANY.—
22 In the case of a small business investment company, there
23 shall be allowed as a deduction an amount equal to 100 per-
24 cent of the amount received as dividends (other than divi-
25 dends described in paragraph (1) of section 244, relating

1 to dividends on preferred stock of a public utility) from a
2 domestic corporation which is subject to taxation under this
3 chapter."

4 (d) Section 246 (b) (1) is amended by striking "243"
5 wherever appearing and inserting in lieu thereof "243 (a)
6 and (b)".

7 MISCELLANEOUS

8 SEC. 409. (a) Wherever practicable the operations of a
9 small business investment company, including the genera-
10 tion of business, may be undertaken in cooperation with
11 banks or other financial institutions, and any servicing or
12 initial investigation required for loans or acquisitions of
13 securities by the company under the provisions of this Act
14 may be handled through such banks or other financial insti-
15 tutions on a fee basis. Any small business investment com-
16 pany may receive fees for services rendered to such banks or
17 other financial institutions.

18 (b) Each small business investment company may make
19 use, wherever practicable, of the advisory services of the
20 Federal Reserve System and of the Department of Commerce
21 which are available for and useful to industrial and com-
22 mercial businesses, and may provide consulting and advisory
23 services on a fee basis and have on its staff persons competent
24 to provide such services. Federal Reserve banks are author-
25 ized to act as a depository or fiscal agent for any company

1 organized under this Act. Such companies may invest
2 funds not reasonably needed for their current operations in
3 direct obligations of, or obligations guaranteed as to principal
4 and interest by the United States.

5 (c) The Administration is authorized to prescribe regu-
6 lations governing the operations of small business investment
7 companies and to carry out the provisions of this Act in ac-
8 cordance with the purposes of this Act. Each small business
9 investment company shall be subject to examinations made
10 by direction of the Administration by examiners selected or
11 approved by the Administration, and the cost of such exam-
12 inations, including the compensation of the examiners, may
13 in the discretion of the Administration be assessed against the
14 company examined and when so assessed shall be paid by
15 such company. Every such company shall make such re-
16 ports to the Administration at such times and in such form as
17 the Administration may require.

18 (d) Should any small business investment company vio-
19 late or fail to comply with any of the provisions of this Act
20 or of regulations prescribed herunder, all of its rights, privi-
21 leges, and franchises derived herefrom may thereby be for-
22 feited. Before any such company shall be declared dissolved,
23 or its rights, privileges, and franchises forfeited, any non-
24 compliance with or violation of this Act shall, however, be

1 determined and adjudged by a court of the United States of
2 competent jurisdiction in a suit brought for that purpose in
3 the district, territory, or other place subject to the jurisdic-
4 tion of the United States, in which the principal office of such
5 company is located, which suit shall be brought by the
6 United States at the instance of the Administration or the
7 Attorney General.

8 (e) Whenever in the judgment of the Administra-
9 tion any person has engaged or is about to engage in any
10 acts or practices which constitute or will constitute a viola-
11 tion of any provision of this Act or of any regulation there-
12 under, the Administration may make application to the
13 proper district court of the United States, or the United
14 States courts of any Territory or other place subject to the
15 jurisdiction of the United States, for an order enjoining such
16 acts or practices, or for an order enforcing compliance with
17 such provision, and such courts shall have jurisdiction of
18 such actions and upon a showing by the Administration that
19 such person has engaged or is about to engage in any such
20 acts or practices a permanent or temporary injunction, re-
21 straining order, or other order, shall be granted without
22 bond.

23 (f) Any small business investment company may at any
24 time within the two years next previous to the date of the
25 expiration of its corporate existence, by a vote of the share-

1 holders owning two-thirds of its stock, apply to the Admin-
2 istration for approval to extend the period of its corporate ex-
3 istence for a term of not more than thirty years, and upon
4 approval of the Administration as provided in section 401
5 hereof such company shall have its corporate existence ex-
6 tended for such period unless sooner dissolved by the act of
7 the shareholders owning two-thirds of its stock, or by an Act
8 of Congress or unless its franchise becomes forfeited as
9 herein provided.

10 (g) Nothing in this Act or in any other provision of
11 law shall be deemed to impose any liability on the United
12 States with respect to any obligations entered into, or stocks
13 issued, or commitments made, by any company organized
14 under this Act.

15 TITLE V—CONVERSION OF STATE CHARTERED
16 INVESTMENT COMPANIES

17 SEC. 501. (a) Any investment company may, by the
18 vote of the shareholders owning not less than 51 percent
19 of the capital stock of such corporation, with the approval
20 of the Administration, be converted into a small business
21 investment company under this Act.

22 (b) In such case the articles of association and organi-
23 zation certificate may be executed by a majority of the

1 directors of the corporation, and the certificate shall declare
2 that the owners of 51 percent of the capital stock have
3 authorized the directors to make such certificate and to
4 change or convert the corporation into a small business in-
5 vestment company. A majority of the directors, after exe-
6 cuting the articles of association and the organization certifi-
7 cate, shall have power to execute all other papers and to
8 do whatever may be required to make its organization per-
9 fect and complete as a small business investment company.
10 The shares of any such company may continue to be for the
11 same amount each as they were before the conversion, and
12 the directors regardless of number, may continue to be
13 directors of the corporation until the election of the board
14 of directors is held in accordance with regulations of the
15 Administration.

16 (c) When the Administration has given to such com-
17 pany a certificate that the provisions of this Act have been
18 complied with, such company, and all its stockholders,
19 owners, and employees, shall have the same powers and
20 privileges and shall be subject to the same duties, liabilities,
21 and regulations, in all respects, as shall have been prescribed
22 by this Act for companies originally organized as small
23 business investment companies.

1 TITLE VI—STATE AND LOCAL DEVELOPMENT
2 COMPANIES

3 SEC. 601. (a) The Administration is authorized to
4 make loans to State and local development companies pro-
5 vided that such funds be used only to supply equity capital
6 to small-business concerns in a manner which will assist in
7 carrying out the purposes of this Act. Any funds advanced
8 under this subsection shall be in exchange for obligations
9 of such institution, which bear interest at a rate, and contain
10 such other terms as the Administration may fix, and funds
11 may be so advanced without regard to the use and invest-
12 ment by such institution of funds secured by it from other
13 sources.

14 (b) The total amount of obligations purchased and out-
15 standing at any one time by the Administration under this
16 section to any one State or local development company shall
17 not exceed 50 percent of such institution's paid-in capital
18 and surplus.

19 TITLE VII—CHANGES IN FEDERAL RESERVE
20 AUTHORITY

21 REPEAL OF SECTION 13B OF THE FEDERAL RESERVE ACT

22 SEC. 701. Effective one year after the date of enact-
23 ment of this Act, section 13b of the Federal Reserve Act
24 (12 U. S. C. 352a) is hereby repealed; but such repeal

1 shall not affect the power of any Federal Reserve bank to
2 carry out, or protect its interest under, any agreement
3 theretofore made or transaction entered into in carrying on
4 operations under that section.

5 RETURN OF FUNDS TO TREASURY

6 SEC. 702. (a) Within sixty days after the enactment
7 of this Act, each Federal Reserve bank shall pay to the
8 United States the aggregate amount which the Secretary
9 of the Treasury has heretofore paid to such bank under the
10 provisions of section 13b of the Federal Reserve Act; and
11 such payment shall constitute a full discharge of any obliga-
12 tion or liability of the Federal bank to the United States
13 or to the Secretary of the Treasury arising out of subsection
14 (e) of said section 13b or out of any agreement thereunder.

15 (b) The amounts repaid to the United States pursuant
16 to section 202, and any remaining balance of the funds set
17 aside in the Treasury for payments under section 13b of
18 the Federal Reserve Act shall be covered into miscellaneous
19 receipts.

20 AUTHORITY TO SELL ASSETS TO SMALL BUSINESS
21 INVESTMENT COMPANIES

22 SEC. 703. Any small business investment company
23 organized under this Act may purchase from any Federal
24 Reserve bank, and any Federal Reserve bank is authorized

1 to sell to any such company, at such reasonable price as
2 may be agreed upon, any or all of the assets heretofore or
3 hereafter acquired by such Reserve bank under the pro-
4 visions of section 13b of the Federal Reserve Act.

5 TITLE VIII—CRIMINAL PENALTIES

6 SEC. 801. (a) The first paragraph of section 217 of
7 title 18, United States Code, is amended by inserting after
8 "farm credit examiner," the following: "or of any small
9 business investment company,".

10 (b) Section 218 of such title is amended by inserting
11 after "National Agricultural Credit Corporations," the fol-
12 lowing: "or an examiner of small business investment
13 companies,".

14 SEC. 802. (a) The first paragraph of section 221 of
15 such title is amended by inserting after "United States,"
16 the following: "or a small business investment company,".

17 (b) The second paragraph of such section 221 is
18 amended by inserting after "Congress," the following: "or
19 any small business investment company,".

20 (c) The heading of such section 221 is amended by
21 striking out "farm loan or land bank" and inserting in lieu
22 thereof "farm loan, land bank, or small business".

23 (d) The table of sections for chapter 11 of such title 18
24 is amended by striking out "farm loan or land bank" in the

1 reference to section 221 and inserting in lieu thereof "farm
2 loan, land bank, or small business".

3 SEC. 803. Section 657 of such title is amended by in-
4 serting after "Federal Savings and Loan Insurance Corpora-
5 tion," the following: "or any small business investment
6 company,".

7 SEC. 804. Section 1006 of such title is amended by in-
8 serting after "Federal Savings and Loan Insurance Corpora-
9 tion," the following: "or any small business investment
10 company,".

11 SEC. 805. Section 1014 of such title is amended by
12 inserting after "a Federal Reserve bank," the following: "or
13 of a small business investment company,".

85TH CONGRESS
2D SESSION

S. 3651

A BILL

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

By Mr JOHNSON of Texas, Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CLARK, Mr. PROXMIRE, Mr. HILL, Mr. O'MAHONEY, Mr. HUMPHREY, Mr. BEALL, Mr. CASE of New Jersey, Mr. PAYNE, and Mr. STENNIS

APRIL 21, 1958

Read twice and referred to the Committee on Banking and Currency

Please return to
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Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 85th CONGRESS, SECOND SESSION

Vol. 104 WASHINGTON, MONDAY, APRIL 21, 1958 No. 60

Senate

Rabbi Charles M. Rubel, Congregation Sherah Israel, Macon, Ga., offered the following prayer:

Sovereign Ruler of the universe, in whose hands rest the destinies of man and of nations: Look down from Thy holy habitation upon our beloved country, the United States of America; and in Thy mercy guide it, and preserve it, in safety and in happiness. Give it of Thy bounties, of the dew of heaven and the fatness of the earth, so it may continue to prosper; and bring peace and contentment to all its inhabitants. Cause all within its borders to dwell in harmony and peace. May we all seek one another's well-being and the common good.

We pray Thee, O Father in heaven, bless our beloved President of the United States, Dwight D. Eisenhower, whom Thou didst endow with Thy heavenly spirit to enable him to save our country from mortal enemies. Give him health and strength, to continue to lead us into the paths of peace and prosperity, justice and righteousness. Send down Thy heavenly blessings, also, upon our beloved Vice President of the United States, RICHARD M. NIXON, who stands beside our leader at all times, to help him guide our land to its destinies.

Bless each and every one of these chosen representatives of our people, the honorable Senators of our 48 States, their families, and dear ones. May they always devote themselves unselfishly to the welfare of our beloved country. Grant them wise and discerning hearts, to legislate wisely and beneficently. May they deal justly with all the problems confronting them for the welfare of our people. May all their deliberations be in the spirit of Thine eternal truths. Bless all other representatives of our people and all others who exercise just and rightful authority.

We pray also for the welfare of all the nations of the world and for all mankind, which is now undergoing the pangs of a rebirth, through their own representatives at the United Nations. May our beloved United States always be the torch bearer of true international love and friendship, understanding, and liberty, for all. May the day soon come when the words of the divine prophet will be realized, that nation shall not lift up sword against nation, neither shall they learn war any more. May our country ever be the home of justice and freedom. Shelter it beneath the shadow of Thy wings, and spread the canopy of Thy peace over our land, and the lands of all the world, so they may all form one bond of unity, in love and friendship, thus performing Thy will with a perfect heart. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 17, 1958, was dispensed with.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of January 16, 1958,

Mr. RUSSELL, from the Committee on Appropriations, on April 18, 1958, reported favorably, with amendments, the bill (H. R. 11767) making appropriations for the Department of Agriculture and Farm Credit Administration for the fiscal year ending June 30, 1959, and for other purposes, and submitted a report (No. 1438) thereon, which was printed.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Howard R. Jordan, to be postmaster at Leighton, Ala., which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 864. An act to provide for the transfer of certain lands to the State of Minnesota;

S. 1118. An act to facilitate the administration and development of the Whitman National Monument, in the State of Washington, by authorizing the acquisition of additional land for the monument, and for other purposes;

S. 2037. An act to amend the act of June 28, 1946, authorizing the performance of necessary protection work between the Yuma project and Boulder Dam by the Bureau of Reclamation; and

S. 3120. An act to amend the acreage allotment and marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, to provide additional allotments for farms in the Tulelake area, Modoc and Siskiyou Counties, Calif., for the 1958 and 1959 crops of wheat, and for other purposes.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. JOHNSON of Texas, and by unanimous consent, the following committee and subcommittees were authorized to meet during the session of the Senate today:

The Committee on Agriculture and Forestry.

The Subcommittee on Public Health, Education, and Welfare of the Committee of the District of Columbia.

The Subcommittee on Veterans' Affairs of the Committee on Labor and Public Welfare.

COMMITTEE SERVICE

Mr. JOHNSON of Texas. Mr. President, I send to the desk a proposed order, request that the clerk state it, and ask that it be considered immediately.

The VICE PRESIDENT. The proposed order will be stated by the clerk.

The legislative clerk read as follows:

Ordered, That Mr. PROXMIRE be excused from further service as a member of the Committee on Post Office and Civil Service and assigned to service on the Committee on Agriculture and Forestry.

Mr. JOHNSON of Texas. Mr. President, I may say the distinguished junior Senator from Wisconsin has been in this body only a short time, but he has made a profound impression on every Member of the body. He asked for service on the Committee on Agriculture and Forestry. This is the first vacancy we have had since he came to the Senate to which he could be assigned. He has manifested a great deal of interest in the subject and speaks with authority on it. I am delighted, by the direction of the 15-man Democratic steering committee, with the approval of the minority leader, to present this order to the Senate at this time and ask Senate approval.

The VICE PRESIDENT. The question is on agreeing to the order.

The order was entered.

Mr. JOHNSON of Texas. Mr. President, I send another proposed order to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The proposed order will be read by the clerk.

The legislative clerk read as follows:

Ordered, That Mr. CLARK be appointed to the Committee on Post Office and Civil Service.

Mr. JOHNSON of Texas. Mr. President, I should like to observe that the Senator from Pennsylvania has previously served on the committee, has done outstanding work in the field of post office and civil service and related matters, and he has expressed a desire to serve on the committee. The Democratic steering committee has unanimously recommended his assignment to the committee. We have cleared with the minority leader taking up this matter at this time.

Mr. CARLSON. Mr. President, I should like to state, as the ranking minority member of the Committee on Post Office and Civil Service, it has been a pleasure to have worked with and to have been associated with the Senator from Wisconsin. While we regret to see him leave that committee, we are glad we shall get the services of the Senator from Pennsylvania.

Mr. JOHNSON of Texas. I appreciate the sentiments expressed by the Senator from Kansas. We appreciate his complete cooperation with us at all times.

The VICE PRESIDENT. The question is on agreeing to the order.

The order was entered.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour; and I ask unanimous consent that statements made in that connection be limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

TEXAS INDEPENDENCE DAY

Mr. JOHNSON of Texas. Mr. President, on this day, 122 years ago, Texas won its independence from Mexico in one of the most decisive battles of world history.

It is a day dear to the hearts of all Texans, wherever they may be. This is San Jacinto Day. The battle won by Gen. Sam Houston at the junction of the San Jacinto River and Buffalo Bayou permanently changed the course of development in this country.

The freedom of Texas from Mexico, won at San Jacinto, led to annexation and to the Mexican War, which resulted in the acquisition by the United States of Texas, New Mexico, Arizona, Nevada, California, Utah, and parts of Colorado, Wyoming, Kansas, and Oklahoma. Almost one-third of the present area of the American Nation—nearly 1,000,000 square miles of territory—changed sovereignty.

When trouble developed between the colonists and the Mexican Government, the successive tragedies at San Antonio, San Patricio, Agua Dulce, Goliad, Refugio, and Victoria, and the retreat of the Texas Army, followed.

The memory of the Alamo and Goliad massacres was very clear in the hearts and minds of Sam Houston's men when they set out for what developed to be the concluding military event of the revolution. They remembered the words of William Barret Travis, who, with Jim Bowie, Davy Crockett, and 184 others under his command, had died fighting in the Alamo, only a few weeks before:

> I am besieged by a thousand or more of the Mexicans under Santa Anna. * * * The enemy has demanded a surrender at discretion, otherwise the garrison are to be put to the sword. * * * I shall never surrender or retreat. * * * I call on you in the name of liberty, of patriotism, and everything dear to the American character, to come to our aid. * * * I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—victory or death.

Santa Anna swept eastward with his army, thinking the war was over. Houston and his army moved eastward, in pursuit; and on April 21, as the Mexicans camped under the high grounds overlooking a marsh, the Texans attacked. The battle lasted 18 minutes. The Mexican Army was routed; Santa Anna was taken prisoner. The war was truly ended then.

Few military battles in North America have had greater significance. But for Texans, the significance is not of land, or money, or bigness, but the bright, shining memory of how and why we won our freedoms.

SMALL BUSINESS INVESTMENT ADMINISTRATION ACT OF 1958

Mr. JOHNSON of Texas. Mr. President, on January 30, 1958, I introduced a bill, S. 3191, which proposes the establishment of a system of small business capital banks. This bill was referred to the Committee on Banking and Currency, to be considered together with other bills designed to provide long-term credit and equity capital for small businesses.

S. 3191 grew out of hearings held in the House of Representatives by my beloved friend Representative WRIGHT PATMAN, is aimed at one of the great problems now faced by America's small businesses: The problem of securing long-term and equity money at reasonable interest rates.

In March of this year, the Board of Governors of the Federal Reserve System released the first two parts of a very comprehensive study of the financing needs of small businesses. An evaluation of the first two parts of this study would indicate that other proposals for financing business business are worthy of consideration. I now introduce for appropriate reference on behalf of myself, and Senators FULBRIGHT, SPARKMAN, CLARK, PROXMIRE, HILL, O'MAHONEY, HUMPHREY, BEALL, and CASE of New Jersey, a bill which contains some of the features embodied in S. 3191, but which approaches the problem in ways which seem to be indicated by some of the conclusions of the Federal Reserve study.

The Banking and Currency Committee is now holding hearings on S. 2160, S. 2185, S. 2286, and S. 3191. The bill which I introduce today will also be considered during these hearings, and I am confident that the committee will select the best and most workable features of these bills and will report to the Senate a measure which can be successful in solving the long-term credit and equity capital needs of small businesses.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point of my remarks a sectional analysis of the new bill.

There being no objection, the sectional analysis was ordered to be printed in the RECORD, as follows:

SECTIONAL ANALYSIS OF SMALL BUSINESS INVESTMENT ADMINISTRATION ACT OF 1958

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Section 101: The act is cited as the "Small Business Investment Administration Act of 1958."

Section 102: The policy of Congress is to establish a program to stimulate and supplement the flow of private equity capital and long-term loan funds to small-business concerns.

Section 103: Defines various terms used in the act.

TITLE II—SMALL BUSINESS POLICY BOARD

Section 201: There is created a Small Business Policy Board to consist of the Secretary of the Treasury, the Secretary of Commerce, the Administrator of the Small Business Administration, and the Administrator of the Small Business Investment Administration.

Section 202: The Small Business Policy Board has the following functions:

(a) to establish general policies governing the approval and disapproval of applications for financial assistance by the Small Business Administration (hereinafter called SBA) and the Small Business Investment Administration (hereinafter called SBIA);

(b) to coordinate the activities of the SBA and the SBIA, and their activities with other activities and policies of the Government;

(c) to prescribe standards and criteria for the definition of "small business concerns," as used in this act and as used in the Small Business Act of 1953; and

(d) to promulgate standards to determine the eligibility of small-business concerns for assistance as provided in this act.

TITLE III—SMALL BUSINESS INVESTMENT ADMINISTRATION

Section 301: Creates an agency of the Federal Government to be known as the Small Business Investment Administration.

Section 302: The management of the SBIA is vested in an Administrator appointed by the President with the advice and consent of the Senate. His salary is set at $20,000 a year.

Section 303: Enumerates the general powers of the Administrator (such as the hiring of employees, availing himself of the service and facilities of other agencies and departments of the Government, and the acquiring and disposal of property in connection with carrying out the functions of this act).

Section 304: Provides for the deposit of funds by the SBIA, and its contributions to the civil service retirement and disability fund.

Section 305: To finance its activities, as set forth in section 306, the SBIA is authorized to issue obligations to the Secretary of the Treasury in an amount not exceeding $250 million outstanding. During the first year after enactment, the SBIA may not have such obligations outstanding in excess of $50 million, and during the second year it shall not have obligations outstanding in excess of $150 million. Such funds and proceeds therefrom shall constitute a revolving fund. Interest rate paid to the Treasury shall be not more than the current average yields on United States obligations of comparable maturities.

Funds necessary to carry out the administrative operations of the SBIA will be appropriated by the Congress.

Section 306: The revolving fund of the SBIA may be used to:

1. Invest in small business investment companies;
2. Make loans to small business investment companies; and
3. Make loans to State and local development companies.

TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES

Section 401: Small business investment companies may be formed by five or more persons subject to the approval of the SBIA. Enumerated are such powers as are necessary to carry on the business for which the company is established.

Section 402: A small business investment company must have $500,000 paid-in capital and surplus before it may commence business. The SBIA is authorized to invest a maximum of $250,000 in any such company. Shares of stock in such companies may also be purchased by member banks of the Federal Reserve System, nonmember banks, insurance companies, financial institutions, corporations, partnerships, and other persons. A member bank or an insured nonmember bank, however, may hold stock in such companies only in an aggregate amount of 1 percent of such bank's capital and surplus. The aggregate amount of stock in such companies which may be held by any stockholder may be limited by the SBIA.

Section 403: Small business investment companies may borrow money and issue obligations subject to limitations and regulations of the SBIA. The SBIA is authorized to lend money to such companies upon such terms and at such interest rate as determined by the SBIA. The SBIA may not have loans outstanding at any one time to any one company in an amount exceeding 50 percent of the paid-in capital and surplus of such company.

Section 404: Small business investment companies are authorized to provide equity capital to eligible small-business concerns through the purchase of convertible debenture bonds. Such bonds shall bear interest and contain other such terms as the company may fix with the approval of the SBIA. Before any equity capital is provided to a small-business concern under this section, the investment company may require such concern to (1) refinance any or all of its outstanding debt so the investment company is the only holder of evidence of indebtedness of such concern, and (2) agree not to thereafter incur any debts without the approval of the investment company. When a small-business concern obtains equity capital under this section, it is required to purchase stock in the investment company in an amount ranging from 2 to 5 percent of the funds it obtains; the amount of such stock purchase to be set by the SBIA.

Section 405: Small business investment companies are authorized to make long-term loans to eligible small-business concerns. The maximum rate of interest on such loans is to be determined by the SBIA, and maximum maturity is set at 30 years with the investment company having the right to extend the maturity of any loan another 10 years if it deems such extension advisable to orderly liquidation of the loan. Such loans may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.

Section 406: Without the approval of the SBIA, no small business investment company can have more than one-third of its combined capital and surplus in loans and investments of a single small business concern at one time.

Section 407: Securities issued by small business investment companies may be exempt by the SEC from the Securities Act of 1933 and the Trust Indenture Act of 1939, or issued under special regulations, if the SEC finds that enforcement of these two acts is not necessary in the public interest and for the protection of investors.

Section 408: Any individual or corporation is allowed an ordinary (rather than capital) loss derived from a sale or exchange of stock in a small business investment company. Also, a small business investment company receives an ordinary loss on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 404 above. Further, a dividend received deduction equal to 100 percent (rather than 85 percent) of dividends received by a small business investment company is allowed.

Section 409: Contains miscellaneous provisions concerning the operations of small business investment companies and the regulation of them by the SBIA.

TITLE V—CONVERSION OF STATE CHARTER INVESTMENT COMPANIES

Section 501: State chartered investment companies may, upon the vote of the majority of stockholders, be converted into a small business investment company with the approval of the SBIA.

TITLE VI—STATE AND LOCAL DEVELOPMENT COMPANIES

Section 601: The SBIA is authorized to make loans to State and local development companies with the stipulation that such funds are to be used by such companies to supply equity capital to small-business concerns. Such loans by the SBIA are to be in exchange for obligations of the development companies on such terms and at an interest rate set by the SBIA. The SBIA loans outstanding at any one time to any one development company cannot exceed 50 percent of a company's paid-in capital and surplus.

TITLE VII—CHANGES IN FEDERAL RESERVE AUTHORITY

Section 701: Section 13b of the Federal Reserve Act (which provides that Federal Reserve banks may make working capital loans to business concerns) is repealed 1 year after enactment of this act. A savings provision protects transactions being carried out.

Section 702: Section 13b funds are to be returned by the Federal Reserve banks to the Treasury.

Section 703: Small business investment companies are authorized to purchase from any Federal Reserve bank the assets acquired by such bank under section 13b of the Federal Reserve Act.

TITLE VIII—CRIMINAL PROVISIONS

Sections 801–805: Makes it a crime for an officer, director, agent, or employee of a small business investment company to (a) make any loans to an examiner of such company, (b) receive a fee, gift or commission for any transaction by the company which is not authorized in this act, (c) embezzle or willfully misapply any funds or securities belonging to such company, and (d) make a false entry or report or to make an unauthorized transaction.

It is a crime for an examiner of a small business investment company to receive a loan from such company.

It is a crime for anyone to knowingly make any false statement or report or to willfully overvalue any property or securities for the purpose of influencing the action of a small business investment company.

Mr. JOHNSON of Texas. Mr. President, I also ask unanimous consent that the bill remain at the desk for a period of 24 hours, in order that other Senators may have an opportunity to join as cosponsors.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from Texas.

The bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, introduced by Mr. JOHNSON of Texas (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Banking and Currency.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON CERTAIN RESEARCH AND DEVELOPMENT CONTRACTS

A letter from the Director of Research and Development, Department of the Army, Washington, D. C., transmitting, pursuant to law, a report on research and development contracts for $50,000 or more which were awarded during the period July 1, 1957, to December 31, 1957 (with an accompanying report); to the Committee on Armed Services.

FINANCIAL ASSISTANCE TO SMALL-BUSINESS CONCERNS

A letter from the Administrator, Small Business Administration, Washington, D. C., transmitting a draft of proposed legislation to provide financial assistance to small-business concerns through private (local) or State development credit corporations; to establish small-business investment associations; to make equity-type capital available through funds provided by the Small Business Administration; and for other purposes (with an accompanying paper); to the Committee on Banking and Currency.

AUDIT REPORT ON THE GOVERNMENT PRINTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, an audit report on the Government Printing Office, for the fiscal year ended June 30, 1957 (with an acompanying report); to the Committee on Government Operations.

REPORT PRIOR TO RESTORATION OF BALANCES, NATIONAL PARK SERVICE

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report prior to restoration of balances, National Park Service, as of February 28, 1958 (with an accompanying report); to the Committee on Government Operations.

REVISED REPORT PRIOR TO RESTORATION OF BALANCES, DEPARTMENT OF THE ARMY

A letter from the Engineer Comptroller, Corps of Engineers, Department of the Army, transmitting, pursuant to law, a revised report prior to restoration of balances, Corps of Engineers, as of April 1, 1958 (with an accompanying report); to the Committee on Government Operations.

PROPOSED CONCESSION CONTRACT, BLUE RIDGE PARKWAY, NORTH CAROLINA

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract, Blue Ridge Parkway, North Carolina (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON PROVISION OF WAR-RISK INSURANCE AND CERTAIN MARINE AND LIABILITY INSURANCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on the provision of war-risk insurance and certain marine and liability insurance for the American public, as of March 31, 1958 (with an accompanying report); to the Committee on Interstate and Foreign Commerce.

AMENDMENT OF CHAPTER XIII, BANKRUPTCY ACT

A letter from the Acting Director, Administrative Office of the United States Courts, Washington, D. C., transmitting a draft of proposed legislation to amend chapter XIII—wage earners' plans—of the Bankruptcy Act (with an accompanying paper); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Three letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

GRANTING OF STATUS OF PERMANENT RESIDENCE TO CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders granting the applications for permanent residence filed by certain aliens, together with a statement of the facts and pertinent provisions of law as to each alien, and the reasons for granting such applications (with accompanying papers); to the Committee on the Judiciary.

RESCISSION OF ADJUSTMENT OF STATUS OF JESUS ANGEL MORENO

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a copy of an order relative to the rescission of adjustment of status granted Jesus Angel-Moreno (with an accompanying paper); to the Committee on the Judiciary.

REPORT OF NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, Washington, D. C., transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1957 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A joint resolution of the Legislature of the State of California; to the Committee on Appropriations:

"Senate Joint Resolution 3

"Joint resolution relative to the school lunch program

"Whereas the school lunch program today faces a serious curtailment as a result of changing conditions; and

"Whereas the reduction in crop surpluses with the accompanying decrease in surplus foods available to school cafeterias has forced the school districts to buy on the climbing open market; and

"Whereas the Federal subsidy has dropped from 9 cents a plate in 1946 to only 4 cents today in California because more children are participating in the program; and

"Whereas raising lunch prices to make up the losses forces away children whose families are receiving less and less take home pay: Now, therefore, be it

"*Resolved by the Senate and the Assembly of the State of California (jointly)*, That the Legislature of the State of California respectfully memorializes Congress to increase its appropriation to the Federal school lunch program so that the schools may continue to offer the high quality low-cost lunches which they have in the past; and be it further

"*Resolved*, That the secretary of the senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Two joint resolutions of the Legislature of the State of California; to the Committee on Interior and Insular Affairs.

"Senate Joint Resolution 5

"Joint resolution relative to expanding the Federal construction program

"Whereas a subcommitte of the Committee on Interior and Insular Affairs of the United States Senate will meet on March 31, 1958, to consider ways and means of expanding the program for the construction of reclamation projects; and

"Whereas there are, at the present time, projects within the State of California upon which construction can and should proceed in the immediate future; and

"Whereas the expediting of said projects will assist in achieving the objective sought in expanding a Federal construction program to enhance the economic welfare of the United States; and

"Whereas among said projects which should and can be constructed in the immediate future are the following: Auburn Dam project; Folsom South Canal project; Yolo Zamora project; Nashville Dam projct; any additional project or projects for which studies have been completed or can be completed to the point that their construction can be commenced before April 1, 1962; and

"Whereas said projects are vitally needed for water conservation and flood control within this State: Now, therefore, be it

"*Resolved by the Senate and the Assembly of the State of California jointly*, That the Congress of the United States is respectfully memorialized to provide authorization, in any expanded Federal reclamation construction program, for the early construction of the following projects: Auburn Dam project; Folsom South Canal project; Yolo Zamora project; Nashville Dam project; any additional project or projects for which studies have been completed or can be completed to the point that their construction can be commenced before April 1, 1962; and urges the Congress of the United States to enact legislation to accomplish this objective; and be it further

"*Resolved*, That the Secretary of the Senate is directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Honorable CLINTON ANDERSON, chairman of the Subcommittee of the United States Senate Committee on Interior and Insular Affairs, and to each Senator and Representative from California in the Congress of the United States."

"Senate Joint Resolution 8

"Joint resolution relative to providing San Benito, Santa Cruz, and Monterey Counties with a supply of water from the Central Valley project

"Whereas the anticipated increase in population and in industrial development in the area comprising the counties of San Benito, Santa Cruz, and Monterey, together with the intense agricultural activity now existing in that area, will combine increasingly to tax existing water supplies of the region; and

"Whereas at present the watersheds of San Benito, Santa Cruz, and Monterey Counties are virtually the sole source of the water supply for the region; and

"Whereas to meet the desperate water needs of this region, it is necessary that the most feasible plan to obtain an additional supply of water be determined with the least possible delay; and

"Whereas it may prove advantageous to San Benito, Santa Cruz, and Monterey Counties to have an alternative choice to the service contemplated by the California water plan; and

"Whereas lack of a report made by the Secretary of the Interior, through the Bureau of Reclamation, on the feasibility of serving San Benito, Santa Cruz, and Monterey Counties with water from the Central Valley project or the San Luis project, or both, may preclude the possibility of congressional authorization of a Federal reclamation project to serve the area; and

"Whereas lack of congressional authorization of a Federal reclamation project to serve San Benito, Santa Cruz, and Monterey Counties with water from the Central Valley project or the San Luis project, or both, would deny citizens of the area an alternative choice of the service contemplated by the California water plan: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States and the Secretary of the Interior, through the Bureau of Reclamation, to take such action as may be necessary to conduct and complete with least possible delay the necessary investigations, surveys, and studies for the purpose of providing plans and feasibility reports to furnish a supply of water from the Central Valley project or the San Luis project, or both, to San Benito, Santa Cruz, and Monterey Counties, all generally in keeping with section 2 of the act of October 14, 1949 (63 Stat. 852) authorizing the American River Division, Central Valley project; and be it further

"*Resolved*, That the Secretary of the Senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the United States Bureau of Reclamation."

Senate May 20, 1958

Service. p. D441

2. FARM PROGRAM. Rep. Hiestand and others commended Administration farm policies and urged enactment of the President's legislative program for agriculture. Other Representatives criticized Administration farm policies. pp. 8116-20, 8124-27

3. STATEHOOD. Rep. O'Brien urged enactment of legislation to grant statehood to Alaska. pp. 8103-04

4. FOREIGN TRADE. Rep. Dellay inserted an American Legion resolution urging Congress "to enact legislation that will prevent injury to and liquidation of industries essential to the defense and the economic welfare of our country." pp. 8115-16

Received a Me. Legislature memorial recommending that Congress provide in the "trade agreements legislation now before its adequate safeguards to remedy injury to domestic industry through import quotas and an effective legal control." p. 8133

Received a N. Y. League of Women Voters petition urging extension of the Reciprocal Trade Agreements Act. p. 8133

5. PLYWOOD IMPORTS. Rep. Porter defended the policy of permitting the importation of plywood from Japan. pp. 8127-28

6. SMALL BUSINESS. Rep. Patman spoke in favor of legislation to create a system of small business capital banks. pp. 8128-31

7. EXPORT CONTROL. Received from the Commerce Department a quarterly report on export control. p. 8132

8. LOBBYING. Received from the Clerk of the House and the Secretary of the Senate the quarterly report on lobbying. pp. 8134-64

SENATE

9. IMPORTS. The Finance Committee ordered reported with amendments H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. p. D438

10. SMALL BUSINESS. The Small Business Subcommittee ordered reported to the Banking and Currency Committee with amendment S. 3651, the proposed Small Business Investment Administration Act of 1958. p. D438

ITEMS IN APPENDIX

11. WOOL. Rep. Lane inserted a letter criticizing an ICA grant to Pakistan for the purchase of wool tops. pp. A4607-8

12. WATER POLLUTION. Extension of remarks of Rep. Edmondson urging Congress to reject the President's recommendation that the water pollution control program be stopped, and supporting a proposal to enlarge it. p. A4620

13. CORN. Rep. Coad inserted a farmer's letter criticizing the operation of the soil bank and acreage allotment programs. p. A4627

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 21, 1958
For actions of May 20, 1958
85th-2d, No. 79

CONTENTS

Appropriations.....1
Corn.....13
Export control.....7
Farm loans.....19
Farm program.....2
Foreign trade.....4
Forestry.....1
Guam.....17
Imports.....5,9
Lobbying.....8
Marketing.....16
Peanuts.....16
Personnel.....14
Plywood imports.....5,15
Price support.....16
Property.....18
Small business.....6,10,18
Soil bank.....23
Statehood.....3
Taxation.....18
Turkeys.....21
Water, pollution.....12,20
resources.....22
Weather Bureau.....1
Wool.....11,24

HIGHLIGHTS: Several Representatives commended, others criticized, Administration farm policies. House passed Commerce appropriation bill.

HOUSE

1. APPROPRIATIONS. Passed with amendments H. R. 12540, the Commerce Department and related agencies appropriation bill for 1959. pp. 8104-14

A point of order by Rep. Jones, Ala., was sustained against language in the bill which would have provided that $30,000,000 for forest highways was "to be derived from the 'Highway trust fund;." pp. 8108-10

Agreed to an amendment by Rep. Preston to strike out language in the bill which would have provided that unexpended balances as of June 30, 1958, and prior fiscal years, for forest highways, would be rescinded and revert to the general fund. Rep. Preston explained that the amendment was necessary due to the point of order by Rep. Jones. p. 8111

Rep. Preston stated that the Committee report on the bill "emphasized the fact that the Weather Bureau should not ignore the needs of agricultural ... weather reporting. When it was transferred from the Department of Agriculture to the Department of Commerce, the message of the President emphasized the fact that although that transfer was being made, perhaps in the interest of aviation, it should not neglect its service to agriculture." p. 8107

The "Daily Digest" states that "conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of H. R. 10746, fiscal 1959 appropriations for the Department of the Interior and related agencies." The bill includes funds for the Forest

9. FEDERAL-STATE RELATIONS. The Judiciary Committee ordered reported with amendment H. R. 3, to establish rules of interpretation governing questions of the effects of acts of Congress on State laws. p. D472

10. AGRICULTURAL APPROPRIATION BILL FOR 1959 (continued). The conference report on this bill, H. R. 11767 (H. Rept. 1776) was reported in Digest No. 83 and a summary table of conferee actions attached thereto. The table erroneously reflected the 1959 appropriation for meat inspection as $17,236,000, rather than the correct amount of $17,326,000 (same as 1959 Budget Estimate). The amount of $17,236,000 had been incorrectly included in H. R. 11767 as printed with the numbered amendments of the Senate, but the conference report is based on the correct figure of $17,326,000.

SENATE May 27, 1958

11. UNEMPLOYMENT. Began debate on H. R. 12065, to provide for temporary continuation of compensation benefits. pp. 8543, 8549, 8556-88

Sens. Douglas and Kerr submitted their minority views on H. R. 12065, to be printed as part 2 of S. Rept. 1625 on this bill. p. 8533

12. HOUSING. Sen. Sparkman inserted a table showing the increase in the number of housing loan guarantees in recent weeks, and an article, "Housing: Where Business Is Getting Better." pp. 8541-2

Sen. Capehart urged quick action on a measure to extend the authority of FHA to guarantee mortgages. Sen. Johnson discussed the legislative program and concluded that the measure should be included in the omnibus housing bill. Sen. Capehart opposed this because of the time involved. pp. 8583-4

13. SMALL BUSINESS. The Banking and Currency Committee ordered reported with amendments S. 3651, the proposed Small Business Investment Administration Act of 1958. One amendment would provide for expiration July 1, 1961, of the present Small Business Administration authority to charter small-business investment companies. p. D470

Sen. Sparkman urged tax relief for small business and inserted an article discussing administration proposals. pp. 8542-3

14. TRADE AGREEMENTS. Sen. Malone spoke against extension of the Trade Agreements Act and inserted two articles he had written on the need for protective tariffs. pp. 8549-53

15. FARM PROGRAM. Sen. Young inserted an editorial criticizing the Secretary for allegedly failing to tell the farmer's story to non-farmers. pp. 8589-90

16. RESEARCH. Both Houses received from this Department a report on the work of the State agricultural experiment stations during 1957. p. 8534, 8635-6

17. WATERSHEDS. Received from the Budget Bureau plans for works of improvement on Canoe Creek, Ky., and Wild Rice Creek, N. D. and S. D.; to the Agriculture and Forestry Committee. p. 8534

The Vice President presented a Claremont, Calif., city council resolution urging the enactment of legislation to continue Federal flood control work in the Los Angeles area. p. 8534

Sen. Dirksen inserted a resolution of the Illinos-Mississippi Canal and Sinnissippi Lake Commission urging Congress to enact the omnibus rivers and harbors authorization bill presented by Sen. Knowland (S. 3686). pp. 8534-5

18. REORGANIZATION. Sen. Smith, N. J., inserted a resolution of the N. J. State Federation of Women's Clubs endorsing and supporting the recommendations of the Second Hoover Commission on reorganization. pp. 8540-1

19. LEGISLATIVE PROGRAM. Sen. Johnson announced that on Thurs., May 29, the Senate would complete action on H. R. 12065, the temporary unemployment compensation extension bill, followed by H. R. 5497, to authorize Federal assistance for certain fish and wildlife development projects under the Watershed Protection and Flood Prevention Act, and S. J. Res. 171, emergency housing bill to extend the authority of FHA to guarantee mortgages, if possible. He announced that after Thurs., if the unemployment bill were passed, there would be no votes planned until Wed., June 4. He announced that H. R. 12181, the mutual security authorization bill for 1958, would be brought up next week. pp. 8549, 8589

ITEMS IN APPENDIX

20. WATER RESOURCES. Extension of remarks of Sen. Johnson inserting an editorial urging approval of a proposed appropriation for conducting a survey of the Trinity River. p. A4859

Sen. Neuberger inserted Gen. Itschner's recent address, "Reevaluating Our Water Resources Programs." pp. A4859-61

21. POULTRY DISEASE. Extension of remarks of Sen. Frear inserting a University of Delaware report on the status of a poultry disease in Delaware. pp. A4861-2

22. FOREIGN AID. Sen. Fulbright inserted an article, "'Big Brother' Uncle Sam Is Hated--Let's Be Just 'Brother,'" criticizing certain foreign aid policies. pp. A4869-70

23. FOREIGN TRADE. Rep. Boggs inserted his address emphasizing the vital importance of the reciprocal trade agreements program. pp. A4873-5

Rep. Wainwright inserted an editorial urging support for extension of the reciprocal trade agreements program. p. A4882

24. FARM PRICES. Extension of remarks of Rep. Wainwright commending the Secretary and inserting an article, "Benson's Stock Up With Farm Prices--Midwest Republicans Say Their Constituents Are Not Mad At anybody." p. A4877

BILLS INTRODUCED

25. PUBLIC WORKS. S. 3910, by Sen. Kerr (for himself and Sen. Case, S. D.), and H. R. 12700, by Rep. Davis, Tenn., authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation and flood control; to Senate and House Public Works Committees.

26. FORESTS. H. R. 12704, by Rep. Horan, to amend the provisions of law codified as section 500, title 16, U. S. Code; to Agriculture Committee.

27. PERISHABLE COMMODITIES. H. R. 12708, by Rep. Wainwright, to amend the Perishable Agricultural Commodities Act, 1930, to provide that it shall apply to fresh flowers; to Agriculture Committee.

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Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 5, 1958
For actions of June 4, 1958
85th-2d, No. 89

CONTENTS

Acreage allotments.....13
Appropriations.....5,15,34
Audit.....8
Bankruptcy.....31
Buildings.....11
Chemical preservatives..36
Cotton.....23
Economic situation...19,38
Electrification.....7
Farm loans.....29
Farm prices.....4
Farm program.....6,17
Fish and wildlife.....37
Food marketing.....18
Foreign aid.....2
Foreign trade.....3,16
Forestry.....8,13
4-H clubs.....10
Fruit tree farm.....29
Grain standards.....13
Legislative program.....12
Meatpackers.....30
Monopolies.....28
Pay raise.....1
Peanuts.....13
Personnel.....1
Procurement.....35
Property.....10,26
Public works.....14
Reclamation.....20
River development.....7
Roads.....32
Small business.....9
Soil bank.....27
Statehood.....24
Sugar.....25
Surplus commodities.....3
Trade agreements.....21
Unemployment.....39
Vesicular exanthema.....33
Watersheds.....13
Weather.....22

HIGHLIGHTS: Senate concurred in House pay raise bill with amendment. Senate debated mutual security authorization bill. Sen. Humphrey said USDA recommendations on Public Law 480 were inadequate. Sen. Symington discussed farm-price situation. House committee ordered reported bills to provide for townsites on FS lands, provide reimbursement for appeal inspections under Grain Standards Act, and prohibit creation of farm history through planting peanuts without allotment.

SENATE

1. PAY RAISE. Concurred, with amendment, in the House version of S. 734, the pay raise bill. The amendment was offered by Sen. Johnston for himself and Sen. Carlson. It would permit recruitment of certain scientific and professional college graduates at GS-7 rather than GS-5; restore previously approved Senate language relating to additional supergrades and Public Law 313 positions, and restores previously approved Senate language prescribing a method for adjusting pay of employees upgraded under Sec. 803 of the Classification Act. pp. 9083-97

2. FOREIGN AID. Continued debate on H. R. 12181, the mutual security authorization bill. pp. 9039-40, 9061-83, 9098-123

Sen. Humphrey inserted and discussed an amendment which he intends to propose, to request a study of a possible International Food and Raw Material Reserve. pp. 9069-70

3. FOREIGN TRADE; SURPLUS COMMODITIES. Sen. Humphrey stated that the administration's recommendations for continuation of Public Law 480 have been inadequate, and expressed the hope that the House will soon act on this matter without waiting for an omnibus farm bill. pp. 9058-9

Both Houses received from this Department proposed additional amendments to Public Law 480, to provide for use of foreign currencies for Federal buildings,

trade fair participation, etc., and to permit Sec. 416 donations to summer camps without respect to the number of needy children therein; to Senate Agriculture and Forestry Committee and House Agriculture Committee. pp. 9033, 9172

Both Houses received from this Department a report on agreements in April 1958 under Public Law 480; to Senate Agriculture and Forestry Committee and House Agriculture Committee. pp. 9033, 9172

4. FARM PRICES. Sen. Symington discussed the farm-price situation, particularly the 1952 level as compared with the present. p. 9047

5. COMMERCE APPROPRIATION BILL. The subcommittee ordered reported this bill, H. R. 12540, to the full Appropriations Committee. p. D497

6. FARM PROGRAM. Sen. Symington inserted a newspaper reader's letter on ways to benefit family farms. pp. 9047-8

7. ELECTRIFICATION; RIVER DEVELOPMENT. Sen. Neuberger discussed the question as to whether the Republicans of Oregon favor S. 3114, the Columbia River Development Corporation bill. p. 9053

8. FOREST SERVICE. Received from the Comptroller General an audit report on certain activities in Regions 3 and 4. p. 9034

9. SMALL BUSINESS. The Banking and Currency Committee reported with amendment S. 3651, to make equity capital and long-term credit more readily available for small-business concerns (S. Rept. 1652). p. 9035

10. PROPERTY. The Government Operations Committee reported without amendment H. J. Res. 427, to convey the Federal reversionary right to a tract in Kerr County, Tex., which has been made available for 4-H club purposes (S. Rept. 1651). p. 9035

11. BUILDING. The Public Works Committee reported without amendment S. 3560, to authorize construction of a $20,000,000 Federal building in Memphis, Tenn. (S. Rept. 1653). p. 9035

12. LEGISLATIVE PROGRAM. Sen. Johnson listed several bills which are to be considered following the mutual security bill, including S. 921, on witholding of information; H. R. 7953, to facilitate Forest Service work; and H. R. 5497, to amend the Watershed Act regarding fish and wildlife. He expressed the hope that Congress will adjourn "sometime during the month of August." p. 9033

HOUSE

13. AGRICULTURE Committee ordered reported the following bills:

H. R. 10321, to authorize exchange of lands within the Estes Park Administrative Site, Roosevelt National Forest, for lands of equal value outside the Forest;

H. R. 12161, to permit establishment of town sites of up to 640 acres on national forest or Bankhead-Jones lands;

H. R. 12224 (with amendment), to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment;

S. 2007, to amend the Grain Standards Act to permit the collection of charges to reimburse the Department for overtime, travel, and certain other costs in connection with handling appeal inspections. p. D498

The Committee also approved two watershed projects: Cance Creek, Ky., and Wild Rice Creek, N. Dak. and S. Dak. p. D498

Calendar No. 1683

85TH CONGRESS
2d Session

SENATE

REPORT
No. 1652

SMALL BUSINESS INVESTMENT ACT OF 1958

REPORT

OF THE

COMMITTEE ON BANKING AND CURRENCY

TOGETHER WITH

INDIVIDUAL VIEWS

TO ACCOMPANY

S. 3651

JUNE 4, 1958.—Ordered to be printed

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CONTENTS

	Page
Legislative history	1
Purpose of the bill	2
Need for legislation	3
Foreign experience	6
Domestic precedents	8
Explanation of the bill	9
Establishment of Small Business Investment Division of SBA	9
Revolving fund	10
Small business investment companies	10
Conversion of State development companies and State chartered companies	14
SBA loans to State and local development companies	14
Repeal of section 13b of the Federal Reserve Act	14
SBA grants for management counseling	14
Sectional analysis	15
Individual views of:	
Mr. Capehart, Mr. Bricker, and Mr. Bennett	19
Mr. Robertson	22
Mr. Bush	24
Changes in existing law	18

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SMALL BUSINESS INVESTMENT ACT OF 1958

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Mr. CLARK, from the Committee on Banking and Currency, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 3651]

The Committee on Banking and Currency, to whom was referred the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

LEGISLATIVE HISTORY

This bill is the result of extensive hearings and careful consideration of the long-term credit and equity needs of small businesses by the Committee on Banking and Currency in both sessions of the 85th Congress. In the 1st session of the 85th Congress, the committee held extensive hearings on S. 719, S. 2160, and S. 2286, but deferred action upon these bills pending the results of a study on financing small business by the Federal Reserve System.

The first two parts of this study have been completed and were published jointly on April 11, 1958, by the Committees on Banking and Currency and the Select Committees on Small Business of the Senate and the House of Representatives. The Senate Committee on Banking and Currency also published on April 18, 1958, a study on State and local development corporations and authorities made by the Small Business Administration. In the present session of Congress, hearings on this subject were continued and included consideration of S. 2160, S. 2185, S. 2286, S. 3191, S. 3643, and S. 3651. Upon conclusion of these hearings, the committee considered all of these bills and determined to report S. 3651 with changes which adopt principles and features embodied in several of the other bills under consideration.

Purpose of the Bill

S. 3651 has the primary purpose of making equity capital and long-term credit more readily available for small-business concerns. The bill proposes to achieve this purpose by creating new private financial institutions with Federal assistance and by giving Federal help to State and local development credit corporations. The new institutions will be known as small business investment companies, will be chartered by the Small Business Administration, and will receive long-term loans from the Small Business Administration. State and local development credit corporations are also eligible for long-term Federal loans.

While there is difference of opinion as to the severity of the problem, there is general agreement that small-business concerns are faced with a real difficulty in obtaining long-term loans and equity capital required for adequate growth and development. Commercial banks are not able to furnish such financing; their function lies primarily in short- and intermediate-term lending; they do not supply venture capital or long-term credit. The present financial institutions which do provide a source of venture capital are not able to assist smaller firms. The cost involved in the public sale of securities is prohibitive to small-business issuers. As a result there is no institutional source to which small business may turn to meet its capital needs. Unlike large business concerns, small-sized businesses must seek long-term funds in a most haphazard fashion which, by its very nature, does not provide for the economic growth of small firms that is possible and desirable.

As William McChesney Martin, Jr., Chairman of the Federal Reserve Board of Governors, told the committee:

> There is a gap in the existing structure of financing institutions which lies in the longer-term debt and equity capital areas.

It is this "institutional gap" which is of concern and which this bill is designed to fill.

The Small Business Administration does not meet and was not established for the purpose of meeting this institutional need. The SBA, through its lending program, assists small-business concerns which have been unable to obtain financing through the commercial banks. Therefore, while the SBA serves a valuable purpose by assisting firms in distress and by encouraging commercial banks to move in the direction of intermediate-term loans to small business, it does not contribute in any significant extent to the growth and development of small businesses which need long-term funds.

This new program will establish no direct contact between the Federal Government and small-business concerns which need equity capital and long-term credit. Such small-business concerns will obtain assistance from the newly established private investment companies and from the State and local development credit corporations.

The committee intends that this new program be launched with a minimum of Federal activity and with only a modest increase in per-

sonnel and administrative expenditures by the Small Business Administration. The new program is conceived to carry out or to be based upon the following principles:

(1) To supplement, rather than supplant, existing private facilities.

(2) To operate under a simple and flexible organizational structure.

(3) To operate and be accounted for in complete separation from other Federal small-business programs,

(4) To utilize to the maximum possible extent the facilities of State and local development credit corporations, and

(5) To concentrate upon meeting the equity and long-term credit needs of small-business concerns.

Need for Legislation

Congressional policies affecting small business have with few exceptions been designed not to subsidize or protect them, but instead, to remove obstacles which impede the smooth workings of regular business competition. S. 3651 would further this purpose.

Concern with small-business financing problems has been expressed in this and other countries for over a quarter of a century. The Macmillan report, published in England in 1931, posed the problem of small-business financing at a national level. The committee studying the problem of investment in England declared that small business could not raise the capital it required even when the security it offered was perfectly sound. This lack of investment due to the structural inadequacy of the English money market was called the Macmillan gap. At that time, the British committee suggested the formation of a company to devote itself particularly to the smaller industrial and commercial issues.[1]

A study of small-business financing in the United States was made in 1935 by the Department of Commerce which surveyed 6,158 manufacturers in all parts of the country. These manufacturers employed between 21 and 250 employees.[2]

One striking conclusion of this study was that 47.2 percent of all the manufacturers replied that they could not obtain long-term funds from any source whatever. After reviewing individual financial statements, Commerce Department personnel estimated that almost two-thirds of these firms could be considered sound credit risks.[2]

In 1943, Mr. Roy Foulke, of Dun & Bradstreet told the Select Committee on Small Business of the Senate that—

> under the existing setup of our economic structure we find no organized source or sources to provide long-term money or permanent capital to intermediate-sized firms.[3]

One of the first projects of the Committee for Economic Development in its series of studies of postwar economic problems dealt with small business. At the end of an intensive study, the business

[1] Great Britain, Committee on Finance and Industry, Report, June 1931, Cmd. 3897, par. 407.
[2] Bureau of Census, Survey of Reports of Credit and Capital Difficulties by Small Manufacturers.
[3] Small Business Access to Capital, Senate Special Committee on Small Business, Senate Committee Print No. 15, 78th Cong., 1st sess., 1943, p. 17.

leaders of the United States who constituted the membership of the Committee for Economic Development concluded that:

> One of the fundamental needs of small- and medium-size business is more adequate financing. More long-term credit is needed relative to short-term * * *. More ownership funds are needed relative to borrowed funds * * *. Present banking facilities should be supplemented to open up, for the small enterprise, channels for capital loans and equity capital. The Committee for Economic Development suggests the formation of new capital banks for this purpose.[4]

In making this recommendation, the Committee for Economic Development acknowledged that such an idea had been proposed earlier, in 1945, by the Investment Bankers Association.[5]

The Congress first began to give serious attention to the problems of adequate long-term small-business financing in 1949, when it authorized the Joint Committee on the Economic Report to make a study of the volume and stability of private investment and the role of the Federal Government in promoting the investment of capital.[6]

This study was made by the Subcommittee on Investment under the chairmanship of Senator Joseph O'Mahoney. Among the conclusions reached by this subcommittee was that small-business concerns, as a group, cannot obtain adequate financing on reasonable terms. The subcommittee in its report dated March 23, 1950, stated:

> From the evidence submitted to the subcommittee, it seems clear that one of the important questions facing the American people today is to determine what steps can and should be taken to preserve an open door for investment in little and local business in terms of ownership as well as in terms of debt. That problem is paramount to the development of a steadily expanding economy.[7]

Based upon this subcommittee's study and recommendations, Senator O'Mahoney, with Senators Sparkman, Lucas, and Maybank, introduced S. 3625, entitled the "Small Business Act of 1950." This bill provided for the establishment of private national investment companies which would provide long-term debt and equity capital to small-business concerns, with the original capital for such investment companies to be supplied by the Federal Reserve banks.

The Federal Reserve Board of Governors and the administration joined in supporting this legislation.[8]

Almost 6 years ago, in 1952, the Federal Reserve Board submitted a study to the Senate Small Business Committee on the cost and availability of credit and capital to small business, in which it stated:

> On balance, it is probably fair to say that the availability of long-term debt and equity capital to small business has tended to diminish somewhat over the past two or three decades.

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[4] Research and Policy Committee of the Committee for Economic Development, Meeting the Special Problems of Small Business, June 1947, p. 30.

[5] Small business committee of the Investment Bankers Association of America. Capital for Small Business, April 1945.

[6] S. Con. Res. 26, 81st Cong., 1st sess.

[7] Joint Committee on Economic Report, Volume and Stability of Private Investment, S. Doc. 149, 81st Cong., 2d sess., p. 7.

[8] Hearings, Small Business Act of 1950, Senate Banking and Currency Committee, 81st Cong., 2d sess.

The Department of Commerce has made a further study of small-business financing. In 1955 the Department's field offices queried some 15,000 firms, half of them less than 5 years old, the other half older. The Commerce Department concluded that only one-third of the desired equity funds are actually obtained, with both younger and older firms receiving less than half the total they sought.[9]

During June 1957, this committee held 9 days of public hearings on credit needs of small business. Once again, overwhelming opinion was expressed that a serious credit gap exists and that small- and medium-size businesses particularly were unable to meet their urgent needs for long-term credit or equity capital. The American Bankers Association spokesman supported the principle behind the establishment of capital banks and acknowledged the serious lack of private sources in this field.

The House Small Business Committee hearings on the problems of small-business financing in November 1957, receiving further evidence on the seriousness of the credit gap existing for smaller firms. The House group, too, found substantial agreement on the point that small business needed more adequate sources of equity capital.

The Federal Reserve Board has now completed the bulk of its year-long study, Financing Small Business, which as stated by Chairman Martin, was initiated as a direct result of this committee's hearings in 1957. Mr. Paul H. Banner and Dr. A. D. H. Kaplan, who prepared a paper for this study on the adquacy of small-business financing, reported that "Institutions have not developed to provide small business with practicable access to the securities market" and, in general, that "a review of financing facilities valuable to small business leads to the conclusion that they are inadequate." [10]

The representative of the United States Chamber of Commerce acknowledged the existence of a "gap" in our financial system and traced this gap to the following complex and interrelated causes:

1. High progressive tax rates.
2. Reluctance on the part of management to seek outside equity capital.
3. A desire to finance fixed investment through long-term loans.
4. Difficulty in making contact with equity sources.
5. Problems incident to industrial dispersion and agricultural transition.
6. Restrictions and regulations surrounding securities issuance.
7. Resulting high fixed cost of securities issuance, especially for smaller issues.
8. Rising importance of institutional investing.

Of particular significance is the conclusion reached by Chairman William McChesney Martin, of the Federal Reserve Board. After careful study of this problem, Chairman Martin told this committee, "that there is room for a Government program to foster the flow of

[9] McHugh and Ciaccio, External Financing of Small- and Medium-size Business, Survey of Current Business, October 1955.
[10] Financing Small Business, p. 110 and p. 123.

private investment funds to small business." [11] This view was confirmed by almost every witness who appeared during 10 days of committee hearings in April and May of this year. The Department of Commerce, the Treasury Department, and the Small Business Administration advocate a Federal program.

Foreign Experience [12]

This gap is not peculiar to the United States. Evidence of similar situations in other capitalistic nations can be found in the special financial institutions established in those nations. Some illustrations are as follows:

CANADA

In 1944 the Canadian Parliament established the Industrial Development Bank (IDB) as a wholly owned subsidiary of the Bank of Canada, for the purpose of making term loans to industrial concerns which are unable to obtain adequate financing elsewhere at reasonable terms. The bank's loans have been (1) predominantly for fixed assets and not for working capital, (2) both intermediate and long term, and (3) on a secured and unsecured basis. The experience to date of the IDB has been most encouraging; it has operated for several years at a modest margin of profit.

GREAT BRITAIN

In 1945 the Industrial and Commercial Finance Corporation, Ltd. (ICFC), a private organization formed by the clearing banks and the Bank of England, was established in Great Britain. Its purpose is to provide long-term debt and equity capital to small- and medium-sized industrial and commercial companies which cannot borrow conveniently on the capital market.

The growth of the ICFC has been steady, and it has operated since 1947 at a profit which has been increasing yearly. In the year ended March 1956, the corporation realized a net profit of £1,385,815 and it had outstanding in advances and investments £32,193,017.

WEST GERMANY

A private German institution specializing in long-term loans to industry is the Industriekreditbank, formed in 1949. Its purpose is to provide long-term credit for the reconstruction of German industries with special regard for small- and medium-sized firms which do not have direct access to the capital market.

The resources of this bank come from (1) issues of bearer bonds which are exempt from income and corporate tax, and (2) loans from public institutions.

The most important of the public institutions in Germany designed to provide medium- and long-term loans to business firms which cannot obtain resources from other credit institutions is the Kreditanstalt fuer Wiederaufbau (K. f. W.), established by law in 1948. Its capital is owned by the Government, and it obtains resources from the sale

[11] Hearings, p. 55.

[12] The information in this section, with the exception of that relating to the Industrial Development Bank of Canada, is from the Supply of Capital Funds for Industrial Development in Europe, published by the European Productivity Agency of the Organization for European Economic Cooperation (January 1957), section entitled "Institutions specializing in long-term credit to industry," pp. 45–68.

of its own bearer bonds, through borrowing from the Federal Government and abroad, and from counterpart funds.

A considerable portion of the loans by the K. f. W. have been to large companies and public services whereas almost all of the loans made by the Industrial Credit Bank (mentioned above) have been to small- and medium-sized businesses.

FRANCE

The supply of long-term capital to industry has been furnished in France through semipublic and public credit institutions.

The mainstay of these credit institutions has been the Caisse des Depots et Consignations (CDC) which is essentially a pool of the public's savings. Its direct investment in industrial securities includes various debentures, industrial debentures guaranteed by the Government, and debentures issued by Credit National (described below) for financing industrial firms' purchases of plants and equipment. The CDC also aids industry indirectly by discounting the banks' bills arising out of advances to industry thereby making available a large amount of medium-term credit.

The Credit National, a semipublic institution formed in 1919, has become the most important medium for long-term lending to industry. It obtains its resources from the Treasury and by its own issues in the capital market subject to certain regulations by the Government. Loans are made by the Credit National to firms of all sizes.

The special requirements of small- and medium-sized firms are met by Caisse Centrale de Credit Hotelier Commercial et Industriel. Its operations are similar to those of the Credit National. It provides medium and long-term financing to a network of popular banks which in turn relend the funds to their own members. The majority of this organization's resources comes from the Government.

ITALY

At the present time the most important Italian institution providing long-term capital to business firms is the Instituto Mobiliare Italiano (IMI) which was established as a public institution in 1931. The Government supplied 45 percent of the capital with the balance being supplied by the banks, insurance companies, and savings banks.

The IMI makes long-term loans (up to 20 years maturity) and also purchases stock in companies. In the period from 1945 to 1954, 44 percent of its loans and investments went to public services, 31 percent to shipping concerns, and the balance of 25 percent went to the chemical and engineering industries plus a number of firms in other industries.

BELGIUM

The two most important private institutions providing long-term capital to industry in Belgium are the Societe Generale de Belgique and the Brufina which, after the bank reforms of 1934, took over the long-term loans and participations of the two largest commercial banks.

The most important semipublic institution in the field of industrial finance in the Societe Nationale de Credit a l'Industrie which was established after World War I for the specific purpose of assisting small- and medium-sized firms of good but insufficient standing for issuing and selling their own debentures.

SWEDEN

In 1934 the Government of Sweden and a few leading commercial banks joined in forming the A. B. Industrikredit for the purpose of making medium- and long-term loans to industrial firms, with the main emphasis on firms which are too small to have ready access to the bond market. The operations of this bank, however, have not reached very significant proportions.

Government finance is made available to industry in Sweden through two special funds: (1) Statens Hantverkslonefond which makes loans to small firms for building, purchase of equipment, and sometimes for working capital, and (2) Fonden for Hantverks Och Smoindustrikredit which lends for similar purposes in certain districts where "guarantee associations" have been formed by small industrial firms. These funds do not represent a very significant contribution to long-term industrial financing.

NORWAY

One of the most important sources of long-term capital for industry in Norway is the Den Norske Industribank which was established by the Parliament in 1936 for making mortgage loans to industrial firms, power stations, and hotels. Slightly more than half of the bank's share capital is held by the Government, and the balance is held by private shareholders. Three of its five directors are appointed by the Government.

The main source of this bank's funds is the issue and sale of bearer bonds. Its principal borrowers have been in these industries: Chemical, foodstuff, beverage, tobacco, textile, shipbuilding, and engineering.

SUMMARY

These examples illustrate that (1) the small business financing problems of the United States are not new and are not unique, (2) many nations have recognized that the central government has a responsibility and a proper role in helping to solve these problems, and (3) the financial institutions created should be and can be private and profitable.

The committee is persuaded that existing financial institutions in the United States are not designed and are not equipped to meet the long-term credit and equity needs of smaller enterprises. These needs can be met by the establishment of new private financial institutions. S. 3651 proposes the creation of such institutions with Federal assistance. The committee believes that these new private institutions can be profitable and that Federal participation can be eventually retired.

Domestic Precedents

There are ample precedents to support the committee's position in favoring S. 3651. Some more prominent examples of private financial institutions started under Federal auspices are the following:

Federal land banks.—Established under the Federal Farm Loan Act of 1916 to provide low-cost, long-term credit to farmers. All the capital stock was to be owned by the national farm loan associations organized by farmers. The Federal Government subscribed to stock in such banks to get them started. In June 1947, the last of the capital

owned by the United States Government was retired and the entire system is now owned by the national farm loan associations and direct borrowers.

Federal home-loan banks.—Established under the Federal Home Loan Bank Act of 1932. Such banks make short and long-term advances to member savings and loan associations and other members. They are, in effect, rediscount institutions, and do not deal directly with individual borrowers. The Federal Government supplied the bulk of the initial capital of the home-loan banks; the last Government stock was repaid in 1951.

Banks for cooperatives.—Provided for in legislation in 1933 to lend money to farm cooperatives. The Federal Government furnished the initial capital; farm cooperatives are now in the process of buying out the Government's interest in these banks under the Farm Credit Act of 1955.

Federal Reserve banks.—Established under the Federal Reserve Act of 1913. The act provided that if the necessary capital to establish such banks was not fully subscribed to by banks and the public, the Treasury would purchase stock. The stock in the Federal Reserve banks was fully subscribed to by the banks, and, therefore, no Federal investment was necessary.

Federal intermediate credit banks.—Established in 1923 to supply short-term funds required by production credit associations, farmers' cooperatives, and other agricultural lenders. Capital of $5 million for each of the 12 banks was provided by the United States Government. Under the Farm Credit Act of 1956, the Government's interest in such banks is being purchased gradually by the parties who deal with the banks.

Explanation of the Bill

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION IN THE SBA

The bill establishes a division of the Small Business Administration to be known as the Small Business Investment Division. This Division, to be headed by a Deputy Administrator appointed by the President, by and with the advice and consent of the Senate, is to have the power and authority to: (*a*) charter, regulate, and examine small business investment companies, (*b*) lend funds to such investment companies, and (*c*) lend funds to State and local development companies.

The committee intends that the operations of the SBA in administering this new program should be separated from the SBA's other functions to the maximum possible extent. It believes that this can best be accomplished through a separate division of the SBA, the staff of which will devote itself exclusively to the small business investment companies and to State and local development companies which desire loans.

The committee wishes to emphasize that it does not contemplate the Small Business Investment Division to be a large, cumbersome, and complex organization. Its function will be to deal with and regulate a relatively small number of private small business investment companies, and to make loans to State and local development companies. It is emphasized that the Division will not deal directly with small-business concerns. Unlike the present SBA which has day-to-

day contact with literally tens of thousands of small-business concerns throughout the country, the Small Business Investment Division will not be burdened with any such function nor with the necessity of regional and subordinate offices.

The bill provides that the new functions to be performed by the Small Business Administration shall be carried out in such manner as to insure the maximum participation of private financing sources and shall be administered so that any financial assistance shall not result in a substantial increase of unemployment in any area of the country.

It is of no concern to the committee whether State or private funds are used to attract industry into a particular area, but it is the committee's intent that Federal funds shall not be used for such a purpose. Accordingly, the committee wishes to make it clear that the Small Business Administration should not provide any financial assistance under this act which may be used to provide a subsidy to induce any relocation of industry or to assist any relocation of a small-business concern for other than a sound business purpose.

REVOLVING FUND

In order to carry out the lending functions contained in the bill, the SBA is authorized to issue obligations to the Secretary of the Treasury in an amount not to exceed $250 million outstanding at any one time; such borrowing is to constitute a revolving fund.

Because it will take time to establish small business investment companies, and their growth and development will be a gradual process, the bill limits the amount which the SBA may borrow during the first year after enactment to $50 million outstanding, and during the second year this amount may be increased to a total of $150 million outstanding. The obligations issued by the SBA, under this bill, shall have maturities as set by the SBA with the approval of the Secretary of the Treasury; the interest rate on such obligations, to be determined by the Secretary of the Treasury, shall not be higher than the current average yield on outstanding marketable obligations of the United States of comparable maturities.

This revolving fund is to be used to make loans to small business investment companies, and to make loans to State and local development companies.

SMALL BUSINESS INVESTMENT COMPANIES

Formation.—Small business investment companies formed to operate under this bill may be formed by a minimum of 10 persons. These companies may be chartered under State law or by the SBA as provided in this act. The SBA in determining whether to issue a permit to begin business, or to give permission to operate under this act in the case of a State chartered company, shall consider the need for small-business financing in the area where the proposed company is to operate, the character of the proposed management of the company, and the number of such companies already formed in the United States and the volume of their business.

The committee sees no necessity for the formation of large numbers of small business investment companies, and the Small Business Administration is expected to give close attention to the criteria on this subject as expressed in section 301 (c).

Upon the issuance by the SBA of a permit to begin business, such a company shall become a body corporate with the authority to exercise the usual powers as are necessary to carry on the business for which the company was formed. Each small business investment company is required to have a board of directors consisting of nine members to be elected annually by the company's stockholders. The primary function of these small business investment companies is to provide long-term loans and equity capital to small-business concerns.

SBA authority to charter small-business investment companies will terminate on June 30, 1961. Thereafter, such companies must be chartered under State law and may be given permission to operate under this act by the SBA. The committee believes that by June 30, 1961, all States will have had an opportunity to enable the formation of small-business investment companies to operate under this act, and that a chartering function in the SBA will be unnecessary. Termination of this authority shall have no effect upon the continuing activities of any small-business investment companies chartered by the Small Business Administration.

Capital stock requirements.—A small business investment company is required to have a paid-in capital and surplus of $300,000 before it may commence business. Stock in such companies may be purchased by individuals, partnerships, corporations, insurance companies, and financial institutions, including Federal Reserve member banks and nonmember insured banks. No Federal Reserve member bank or nonmember insured bank, however, may hold shares in such companies in an amount aggregating more than 1 percent of its capital and surplus.

In order to encourage the formation of small business investment companies, the SBA is authorized to provide a maximum of $150,000 to each such company formed, through the purchase of subordinated debentures. These debentures shall be subordinate to any other obligations issued by a company, and they shall be considered as part of such companies' paid-in capital and surplus for purposes of the minimum capital required for formation of an investment company.

The committee desires that there be no misunderstanding concerning the treatment, as a part of capital and surplus, of funds derived from the SBA through these subordinated debentures. The SBA, therefore, should include provisions in its regulations which require all small-business investment companies to clearly identify funds received in this way in the companies' balance sheets, reports, prospectuses, and other publications containing references to their capital structures.

Borrowing power.—Small business investment companies are authorized to borrow money from private sources under such conditions and subject to such limitations and regulations as prescribed by the SBA. Such regulations should include a maximum capital to debt ratio, taking into consideration the purposes for which the companies are formed and the extent to which the companies will be subject to regulation and examination.

To encourage the growth of these companies, the SBA is authorized to lend them money on terms and at a rate of interest set by the SBA. The amount the SBA may lend and have outstanding to any company may not exceed 50 percent of the paid-in capital and surplus of such company (the subordinated debentures of a company which are pur-

chased by the SBA are, for this purpose, treated as part of the capital and surplus). This limitation on the amount the SBA may lend to an investment company is to prevent such companies from merely serving as intermediates in the dispersal of Government funds to small-business concerns. The SBA funds advanced to the small business investment companies are to encourage and facilitate the formation and growth of such companies. The major portion of their funds are expected to come from private sources.

Equity capital for small businesses.—Small business investment companies are authorized to provide equity capital to small-business concerns through the purchase of convertible debentures which shall contain such terms and interest rates as the companies fix under SBA regulations. These debentures are to be convertible at the option of the company or a holder in due course, up to and including the date of call, into stock of the small-business concern at the sound book value of such stock as determined at the time the debentures were issued.

The committee believes that the use of convertible debentures, which has been developed to a high degree in recent years by many large, publicly financed companies, is the most suitable financing instrument for this type of program. This type of debenture is attractive to speculative investors who want an opportunity to share in the future prosperity of a business beyond the fixed claim of ordinary debt. In view of the risk inherent in, and the admittedly experimental nature of the financing which this bill seeks to encourage, consideration must be given to encouraging such speculative investors.

Before an investment company purchases any such convertible debentures, it may require the small-business concern to refinance its outstanding indebtedness so that the investment company is the only holder of indebtedness of such concern. Furthermore, to protect the investment company, such small-business concern may be required to agree not to incur further indebtedness without approval of the investment company.

Whenever an investment company provides capital to a small-business concern through the purchase of convertible debentures, such concern is required to purchase stock in the investment company in an amount equalling from 2 to 5 percent of the amount of the capital provided, as established by SBA regulation. SBA regulations may, however, permit a small-business concern to defer such purchase of stock for a period up to 3 years. The purpose of this stock-purchase requirement is to build up the investment of private funds and, in due course, to make Federal participation unnecessary.

Loans to small-business concerns.—Small business investment companies are authorized to make loans "of such sound value, or so secured, as reasonably to assure repayment" to small-business concerns, both incorporated and unincorporated. These loans may be made directly or in participation with other lending institutions on an immediate or deferred basis. The maximum interest rate on such loans is to be set by the SBA. The maximum maturity of such loans is 30 years, but an investment company may extend the maturity of a loan for an additional 10 years if such extension will aid in the orderly liquidation of a loan.

Without approval of the SBA, the total amount which a small business investment company may lend and invest in a single small-business concern may not exceed 20 percent of the combined capital and surplus of such investment company (subordinated debentures purchased by the SBA under this bill are treated as part of capital and surplus for purposes of this limitation).

Exemptions from securities acts.—The Securities and Exchange Commission is granted the authority to exempt securities which are issued by small business investment companies from the regulatory provisions as contained in the Securities Act of 1933 and the Trust Indenture Act of 1939, if it finds that such exemption will not jeopardize the protection of investors or the public interest. The committee is convinced that it would not be wise to exempt such investment companies outright from the securities laws. At the same time it is recognized that there may be justification for exemptions by the SEC which are consistent with the purposes of the securities laws.

The bill also provides that, with one exception, the Investment Company Act of 1940 shall apply to small-business investment companies just as it does at present to other investment companies. The committee was impressed by the testimony offered by the Chairman of the SEC that, in order to give adequate protection to investors, the Investment Company Act of 1940 should be applicable to small-business investment companies.

The bill does, however, exempt small-business investment companies from the limitation contained in the Investment Company Act that a company's borrowings cannot exceed one-third of the company's total assets. For the type of operation to be carried out by small-business investment companies, the committee is of the opinion that this limitation on borrowing is too restrictive. State development corporations, for example, have debt-to-capital ratios as high as 10 to 1. The bill provides that the SBA may prescribe limitations on borrowing by small-business investment companies. No definite debt-to-capital ratio is prescribed in the bill because of the experimental nature of this program.

Tax provisions.—The bill provides that taxpayers investing in the stock of small-business investment companies will be allowed an ordinary-loss deduction rather than a capital-loss deduction on losses arising from worthlessness or sale of such stock. Small-business investment companies will also be allowed an ordinary loss-deduction, rather than a capital-loss deduction, on losses sustained on convertible debentures, including stock received pursuant to the conversion privilege. The loss deduction will include losses due to worthlessness as well as those arising from sale or exchange of the security.

Such companies will also be allowed a deduction of 100 percent of dividends received from a taxable domestic corporation rather than the 85-percent deduction allowed corporate taxpayers generally.

These tax provisions are endorsed by the Treasury Department which in testimony before the committee stated:

> The (tax) provisions should be helpful in increasing the amount of funds available to the proposed investment companies and they are consistent with other tax recommendations and the general corporate tax law.

CONVERSION OF STATE DEVELOPMENT COMPANIES AND STATE CHARTERED INVESTMENT COMPANIES

Both State development companies and State chartered investment companies, upon the vote of the shareholders owning a majority of the stock in such companies, may with the approval of the SBA be converted into small business investment companies. Upon conversion, such companies shall have all the rights and obligations of companies originally formed and chartered by the SBA as small business investment companies.

SBA authority to approve such conversions will terminate on June 30, 1961. This termination provision is included to conform with the termination date of the SBA authority to charter small-business investment companies.

This conversion privilege is designed to permit companies, which may so desire, to take advantage of the bill's provisions and benefits, e. g., investments and loans from SBA, and tax advantages. The committee believes that it would be unfair to preclude regulated investment companies and State development corporations from the right to convert into small business investment companies if they should desire to do so.

This bill provides that this conversion privilege shall not be construed to supersede the laws of any State.

SBA LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

In order to encourage the growth and development of State and local development companies, which have been performing an increasingly important and useful role in providing credit for small-business concerns, the bill authorizes the SBA to lend money to such companies on such terms and at an interest rate set by the SBA. The SBA may not lend to any such company more than the company has borrowed from all other sources. This limitation in the bill is to prevent the situation arising whereby State and local development companies would be serving only as transmission belts for the conveyance of Federal funds to small-business concerns.

The only exception to this general limitation on loans to State and local development companies is in cases where the SBA loans are secured and are identifiable with ultimate small-business borrowers. Loans of this kind, up to $250,000 each, may be made in addition to the general lending authority discussed in the preceding paragraph.

In order to encourage the formation of statewide development companies in those States which have not begun such a program, the bill provides that loans to local development companies may be made only through June 30, 1961. Thereafter, the SBA will have authority to lend only to State development companies.

REPEAL OF SECTION 13B OF THE FEDERAL RESERVE ACT

Section 13b of the Federal Reserve Act would be repealed 1 year after enactment of this bill. Section 13b, which was enacted in 1934, authorized the Federal Reserve banks to provide working capital to businesses that were unable to obtain needed financial assistance from the usual sources. This authority was granted under emergency conditions existing in the 1930's, and it has been used very little in

recent years. The Board of Governors of the Federal Reserve System has recommended repeal of this authority in the belief that it is inappropriate for the System to participate in the financing of business enterprises. The Senate on March 21, 1957, passed the Financial Institutions Act of 1957 (S. 1451), which includes a provision repealing section 13b; this bill is now before the House Banking and Currency Committee.

The funds which the Federal Reserve banks have received from the Treasury Department under section 13b, amounting to approximately $27.5 million, are to be returned to the Secretary of the Treasury and to be put into a special fund to be available for grants by SBA for management counseling as described in detail below.

SBA GRANTS FOR MANAGEMENT COUNSELING

The Small Business Act is amended to authorize the SBA to make grants to any State government or State development corporation, or colleges and universities for studies, research, and counseling concerning the managing, financing, and operation of small-business concerns. Only one such grant may be made within any one State per year, and no single grant may exceed $40,000. These grants shall be made from the special fund in the Treasury Department created in this bill and described above.

The committee, having heard the testimony of expert witnesses in the field of business management, is convinced that one of the most serious handicaps to many small-business concerns is the lack of adequate management counseling. It is felt that the grants contained in the bill will be of material assistance in filling this need.

Sectional Analysis

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Section 101. Short title.—Cited as Small Business Investment Act of 1958.

Section 102. Statement of policy.—States congressional policy to (1) stimulate and supplement flow of private capital to small business, (2) recognize that such funds are not available in adequate supply, (3) insure maximum participation of private financing sources, and (4) deny financial assistance which would substantially increase unemployment in any area of the country.

Section 103. Definitions.—(Self-explanatory.)

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF SMALL BUSINESS ADMINISTRATION

Section 201. Establishment of Small Business Investment Division.—Creates the Small Business Investment Division within the Small Business Administration. Division to be headed by a Deputy Administrator appointed by President and confirmed by Senate.

Section 202. Provision of funds.—Creates revolving fund of $250 million for Investment Division of SBA—funds to be borrowed from the Treasury at the current average yields on United States obligations of comparable maturities. Maximum borrowing of $50 million during

the first year of operations, and maximum of $150 million during first 2 years of operations.

Section 203. Purpose of revolving fund.—Revolving fund may be used—(1) to purchase subordinated debentures of small business investment companies, (2) to make loans to small business investment companies, and (3) to make loans to State and local development companies.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Section 301. Organization of small business investment companies.—Small business investment companies may be formed by 10 or more persons subject to the approval of the SBA. SBA chartering authority terminates June 30, 1961. Enumerated are such powers as are necessary to carry on the business for which a company is established.

Section 302. Capital stock and subordinated debentures.—A small business investment company must have $300,000 paid-in capital and surplus before it may commence business. The SBA is authorized to advance a maximum of $150,000 to any such company by purchasing subordinated debentures, and such subordinated debentures are to be considered a part of capital and surplus. Shares of stock in such companies may be purchased by member banks of the Federal Reserve System, nonmember banks, insurance conpanies, financial institutions, corporations, partnerships, and other persons. A member bank or an insured nonmember bank may hold stock in such companies only in an aggregate amount of 1 percent of such bank's capital and surplus. The aggregate amount of stock in such companies which may be held by any stockholder may be limited by the SBA.

Section 303. Borrowing power.—Small-business investment companies may borrow money and issue obligations subject to limitations and regulations of the SBA. The SBA is authorized to lend to such companies upon such terms and at such interest rates as determined by the SBA. The SBA may not have loans outstanding under this section at any one time to any one company in an amount exceeding 50 percent of the paid-in capital and surplus of such company.

Section 304. Provision of equity capital for small-business concerns.—Small-business investment companies are authorized to provide equity capital to small-business concerns through the purchase of convertible debenture bonds. Such bonds shall bear interest and contain other such terms as the company may fix with the approval of the SBA. Before any capital is provided to a small-business concern under this section, the investment company may require such concern to (1) refinance any or all of its outstanding debt so the investment company is the only holder of evidence of indebtedness of such concern, and (2) agree not to thereafter incur any debts without the approval of the investment company. When a small-business concern obtains capital under this section, it is required to purchase stock in the investment company in an amount ranging from 2 to 5 percent of the funds it obtains, the amount of such stock purchase to be set by the SBA and the SBA can authorize a 3-year deferment of stock purchase.

Section 305.—Long-term loans to small-business concerns.—Small business investment companies are authorized to make long-term

loans to small-business concerns. The maximum rate of interest on such loans is to be determined by the SBA, and maximum maturity is set at 30 years with the investment company having the right to extend the maturity of any loan another 10 years if it deems such extension advisable to orderly liquidation of the loan. Such loans may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.

Section 306.—Aggregate limitations.—Without the approval of the SBA, no small business investment company can have more than 20 percent of its combined capital and surplus in loans and investments of a single small-business concern at one time.

Section 307.—Exemptions.—Securities issued by small business investment companies may be exempt by the SEC from the Securities Act of 1933 and the Trust Indenture Act of 1939, or issued under special regulations, if the SEC finds that complete application of these two acts is not necessary in the public interest and for the protection of investors. Investment companies chartered by SBA are exempt from the equity-debt ratio requirements of the Investment Company Act of 1940.

Section 308. Tax provisions.—Any individual or corporation is allowed an ordinary (rather than capital) loss derived from a sale or exchange of stock in a small business investment company. Also, a small business investment company may treat as an ordinary loss any loss on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 304 above. Further, a dividend received deduction equal to 100 percent (rather than 85 percent) of dividends received by a small business investment company is allowed.

Section 309. Miscellaneous.—Contains miscellaneous provisions concerning the operations of small business investment companies and the regulation of them by the SBA.

Section 310. Approving State-chartered companies for operations under this act.—State-chartered companies formed expressly for the purpose of operating under this act may be approved for such operations by the SBA. Upon approval such companies shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed for small-business investment companies chartered by the SBA.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

Section 401.—State chartered investment companies and State development companies may, upon the vote of the majority of stockholders, be converted into a small business investment company with the approval of the SBA. SBA conversion authority terminates June 30, 1961. Nothing in this section shall be construed to supersede any State law.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Section 501.—The SBA is authorized to make loans to State and local development companies with the stipulation that such funds are to be used by such companies to assist in carrying out the purposes of

this act. Such loans by the SBA are to be in exchange for obligations of the development companies on such terms and at an interest rate set by the SBA. The SBA loans outstanding at any one time to any one development company under this section cannot exceed the total amount borrowed by the company from all other sources. Loans to local development companies may be made only through June 30, 1961.

Section 502.—The SBA is also authorized to make secured loans to State and local development companies, up to $250,000 each, if such loans are to assist an identifiable small-business concern. Loans to local development companies may be made only through June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Section 601. Repeal of section 13b of the Federal Reserve Act.—Section 13b of the Federal Reserve Act (which provides that Federal Reserve banks may make working capital loans to business concerns) is repealed 1 year after enactment of this act. A savings provision protects transactions being carried out.

Section 602. Fund for management counseling.—Section 13b funds ($27.5 million) are to be returned by the Federal Reserve banks to the Treasury which shall create a special fund to be used by SBA in making grants to States, State agencies, State development companies, colleges and universities for studies, research, and counseling relating to managing, financing, and operating small-business concerns. Only one grant can be made in any one State in any one year and no grant may exceed $40,000.

TITLE VII—CRIMINAL PENALTIES

Sections 701–705.—Makes it a crime for an officer, director, agent, or employee of a small business investment company to (*a*) make any loans to an examiner of such company, (*b*) receive a fee, gift or commission for any transaction by the company which is not authorized in this act, (*c*) embezzle or willfully misapply any funds or securities belonging to such company, and (*d*) make a false entry or report or to make an unauthorized transaction.

Makes it a crime for an examiner of a small business investment company to accept a loan or gratuity from such a company or from anyone connected with such company. Makes it a crime for anyone to knowingly make any false statement or report or to willfully overvalue any property or securities for the purpose of influencing the action of a small business investment company. Makes it a crime for anyone to cause or procure a small business investment company to charge or receive a fee or gift not specifically authorized by law.

INDIVIDUAL VIEWS OF MR. CAPEHART, MR. BRICKER, AND MR. BENNETT

The proposed Small Business Investment Act would commit the Federal Government to a new policy of attempting to satisfy the capital needs of the more than 4 million small-business concerns in our country. To accomplish this impossible task, primary reliance would be placed on a new national banking system consisting of federally chartered "small-business investment companies." The responsibility for promoting the establishment of these unique companies would rest with the Small Business Administration.

Under the bill, any 10 persons could form an investment company with the Government supplying one-half of the required $300,000 capital. In addition, these companies would be eligible for long-term loans amounting to 50 percent of their capital and surplus, that is, $150,000. Thus, the Government would provide $2 for every $1 of private funds invested. To make the inducement even more attractive, these companies would be granted certain income-tax concessions under the Internal Revenue Code.

There is no justification for using the taxpayers' money to finance this venture by the Federal Government into private business. The testimony received by the committee suggests that there is a "gap" in the long-term-financing needs of small business. But there is no agreement as to the extent of the gap—no one really knows, or whether the gap can be filled by private lenders without resort to Federal funds. Furthermore, no cogent reason has been advanced for the Federal Government to suddenly rush in to try to fill this gap.

The Board of Governors of the Federal Reserve System is currently making a study of the financing needs of small business, and the first two parts of the study have been completed. It is unfortunate that the majority of the committee could not wait until the third part of the study has been concluded before approving this legislation. As William McChesney Martin, Chairman of the Federal Reserve Board, has stated, the third part of the study would be—

> a direct survey of the financial structure and experience of smaller businesses, developed through a national sampling approach.

The completed study will be available next year and would provide valuable additional information. We should have all the facts before starting a new program which could well be the first step toward the socialization of an important segment of our free enterprise system.

The bill is not only wrong in principle, but it fails to provide any real help to small-business concerns. The fact that there has been very little, if any, correspondence from small-business men in support of this program would seem to bear this out. The volume of mail and personal contacts indicate that the small-business concerns are far more interested in extending the present loan programs of the Small

Business Administration which have already proven their value. This bill appears to be a case where Government officials in Washington have determined what is best for small business and now will try to convince the small-business concerns that the new program is needed.

The bill authorizes the subsidized federally chartered investment companies to provide capital through the purchase of debentures issued by the small-business concerns. To be eligible for purchase, these debentures must be convertible into the stock of the issuing concern at a price determined at the time the debentures are issued. The thought being that if the business is successful, the bonds will be converted into stock, thus giving the investment companies a share in the profits of the business. The Small Business Administration would fix the interest rate and other terms of the convertible debentures purchased by the investment companies. In order to sell its debentures, the small-business concern would be required to purchase stock in the investment company in an amount equal to not less than 2 percent, nor more than 5 percent of the amount of capital advanced, as may be specified by the SBA. The small-business concern may also be required to refinance all of its outstanding indebtedness with the investment company and to agree that it will not thereafter incur any indebtedness without the approval of the company.

The reason most small-business men do not issue common stocks to obtain additional equity capital is the reluctance on their part to share the control of the business with outsiders. This would be particularly true where a semigovernmental company or the Government itself would be a possible shareholder.

In addition to this basic reluctance to seek outside equity capital, another obstacle to small-business participation would be the necessity for the business concern to deal with both the investment company on the local level and the Small Business Administration in Washington in order to sell its debentures. The inevitable delays that would result from this cumbersome organizational setup would be so time-consuming as to discourage most applicants for assistance. Therefore, it appears extremely likely that only a very few small-business concerns would desire to take advantage of this feature of the program.

The bill would also authorize the investment companies to make 30-year loans to small businesses. This provision ignores the existence of the present SBA program authorizing 10-year loans for the same purpose. Certainly, a small business that is not eligible for the present 10-year loans would not be eligible for the new 30-year loans. It makes no economic sense for the Government to subsidize a new loan program to compete with an existing loan program.

There are a number of other provisions of the bill that should be examined carefully. The statement of policy contains weak language to the effect that the act shall be so administered that financial assistance rendered shall not result in a substantial increase in unemployment in any area of the country. The purpose of this language is purported to be to guard against "pirating" of industry, but the statement is so vague as to be almost meaningless. The bill should clearly state that financial aid shall not be given to assist an industry in moving from one part of the country to another.

In this connection, it should also be noted that there is no prohibition against providing Government funds even though financial assistance can be secured from private sources on reasonable terms. Government funds should not be used to compete with private lenders. It seems strange that the proponents of this new program would object to such a restriction if, as they say, private funds are not available to fill the "gap" in long-term financing.

A total of $250 million would be authorized to finance the new program. This appears to be an excessive amount of money to inaugurate a new program that the Chairman of the Federal Reserve Board suggested "should be approached experimentally and on a small scale, * * *". But, even worse, the proponents of the bill apparently are not confident that the program will stand on its own merits, for the $250 million is authorized to be borrowed directly from the Treasury Department, bypassing the usual appropriations' procedures. Thus, the Committees on Appropriations would not have an opportunity to review the program and obtain a justification by the agency for the expenditure of these funds. The experimental nature of the program would seem to make a periodic congressional review imperative. This procedure is, of course, at variance with the other SBA-loan programs which are financed by regular appropriations.

This bill should be defeated. In sum, it would place the Federal Government in the position of undertaking an impossible assignment with unworkable tools. It would be a disservice to the small-business concerns of our country to present this program as an effective means to meet their long-term-financing problems. It would be more realistic and practical for the Congress to strengthen the existing programs of the Small Business Administration rather than to perpetrate this new intrusion by the Federal Government into private business.

HOMER E. CAPEHART.
JOHN W. BRICKER.
WALLACE F. BENNETT.

INDIVIDUAL VIEWS OF MR. ROBERTSON

The Constitution of the United States provides, in article I, section 9, that:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; * * *

This constitutional mandate has been implemented in both Houses of Congress by the adoption of rules establishing the Standing Committees on Appropriations. Rule XXV of the Standing Rules of the Senate sets forth the jurisdiction of the Committee on Appropriations. Under the rule, all proposed legislation dealing with the "appropriation of the revenue for the support of the Government" must be referred to that committee.

Basic legislation creating a new governmental activity is usually considered by some other committee than the Committee on Appropriations. In order to provide for the financing of such new activities, the basic legislation generally contains authority to obtain an appropriation by language such as, "There is hereby authorized to be appropriated for * * *."

In January 1932, in the midst of the depression, the Committees on Banking and Currency adopted a new procedure to finance activities under the Reconstruction Finance Corporation Act. The necessary funds were provided by authorizing the Reconstruction Finance Corporation to sell its obligations directly to the Secretary of the Treasury, with the purchase of obligations being treated as a public-debt transaction. By borrowing directly from the Treasury in this manner, there was no necessity to secure the approval of the Committee on Appropriations for the expenditure of these funds.

This unique method of appropriating funds from the Treasury in a legislative bill set a precedent and was used from time to time during the depression years and World War II. Perhaps this procedure can be justified in emergency situations, but in recent years this method of appropriating in a legislative bill has become increasingly commonplace. For example, the bills reported this year by the Senate Committee on Banking and Currency and passed by the Senate have authorized over $5 billion in direct borrowing from the Treasury.

The latest use of this device is found in section 202 (a) of the proposed Small Business Investment Act. This provision authorizes the Small Business Administration to borrow a total of $250 million directly from the Treasury. Thus, although this is supposed to be an experimental program, there will be no required review by the Committees on Appropriations to determine whether the experiment is a success or failure. The proponents of this program apparently are unwilling to let this legislation stand on its own merits and to have the expenditure of these funds justified.

It is surprising that over the years this procedure for authorizing direct borrowing from the Treasury in a legislative bill has not been subject to a point of order in either House of the Congress. It is obvious that any language in a bill that orders the payment of money from the Treasury without the necessity of further action by the Congress is an appropriation, and the Senate rules require such legislation to be referred to the Committee on Appropriations. The time has come when the Members of the Senate must decide whether further violation of the Senate rules shall be sanctioned. If this practice is permitted to continue, the Congress will soon find it has lost effective control over a major portion of the Government's expenditures.

Therefore, this statement is intended to give notice that at an appropriate time a point of order will be raised against section 202 (a) of this bill on the ground that it is an appropriation and the Committee on Banking and Currency does not have jurisdiction under Senate rule XXV to report legislation embodying an appropriation. In view of the importance of this point of order and the fact that this question has never been ruled upon in either House, a vote of the Senate will be requested. In the event the Senate sustains this point of order, I would anticipate no difficulty in waiving the rule by unanimous consent if we should face an emergency situation in the future.

A. Willis Robertson.

INDIVIDUAL VIEWS OF MR. BUSH

I support the basic objective of the proposed Small Business Investment Act, namely, to provide the assistance of the Federal Government in filling a gap in the structure of private financing in the United States which deprives many small business concerns of opportunities to obtain equity capital and equity-type financing.

There are defects in the bill as reported by the committee which I hope will be corrected by amendments on the Senate floor or in conference with the House. Nevertheless, the bill represents an effort, supported in principle by the administration and the Federal Reserve Board, to meet a problem which private financial institutions have been unable to solve by themselves.

As fully documented in the committee report, there is widespread agreement among conservative students of the problems of small business that the so-called "institutional gap" exists. The principal reason that small-business concerns are unable to obtain equity capital or equity-type financing through the public security markets is that the cost involved in the flotation of a security issue of $500,000 or less is prohibitive. There are other reasons, including lack of market for small issues.

All the facts presented to the committee in its consideration of this problem justify the conclusion reached by Chairman William McChesney Martin of the Federal Reserve Board:

> * * * there is room for a Government program to foster the flow or private investment funds to small business (hearings, p. 55).

Of major concern to me in considering this bill has been to find a way to prevent the use of Federal funds to assist in the relocation of small business concerns from one area of the country to another.

The bill declares it is the intention of Congress that S. 3651 shall be so administered that any financial assistance—

> shall not result in a substantial increase of unemployment in any area of the country.

The meaning of this phrase is more clearly spelled out in the committee report in the following language, inserted at my request:

> It is of no concern to the committee whether State or private funds are used to attract industry into a partucular area, but it is the committee's intent that Federal funds shall not be used for such a purpose. Accordingly, the committee wishes to make it clear that the Small Business Administration should not provide any financial assistance under this act which may be used to provide a subsidy to induce any relocation of industry or to assist any relocation of a small-business concern for other than a sound business purpose.

This is a distinct, unmistakable warning to the Small Business Administration to examine carefully each application for financial assistance to determine whether the Federal funds to be provided could possibly be used for so-called "pirating" of industry. If that possibility exists, the SBA is admonished to deny the application.

The distinguished junior Senator from Virginia (Mr. Robertson) forcefully presented to the committee the dangers involved in the proposed financing of the program by a "pipeline" to the Treasury instead of the normal appropriation processes. I agree with him that in the development of an experimental program of this kind there is need for periodic review by the Committees on Appropriations, and I will support on the floor, as I did in committee, an amendment to require appropriation of the $250 million needed and to strike out the authorization to borrow directly from the Treasury.

Another objectionable feature of the bill is the authorization to make 30-year loans to small-business concerns. As Chairman Martin of the Federal Reserve Board pointed out to the committee:

> Since the profit and loss hazards of small business operations run high, 10-year debt of such enterprises is long-term (hearings, p. 54).

Under existing law, the SBA is authorized to make 10-year loans, renewable under some circumstances for another 10 years, or a total term of 20 years. I see no justification for establishing a competing loan program, with greater risks to the Government, within the same agency.

Another defect which should be corrected is the provision that the proposed Small Business Investment Division within the Small Business Administration shall be headed by a Deputy Administrator appointed by the President and confirmed by the Senate. This would create administrative problems which should not be imposed upon the Administrator of the Small Business Administration, who will bear the ultimate responsibility for the operations of the new Division. The new deputy should be appointed by the Administrator as are the present three deputies who head existing divisions within the SBA.

If these and other defects in the bill are corrected, I believe that the Senate will, by passing S. 3651, provide long-needed assistance to the small-business concerns which are of such great importance in the national economy.

PRESCOTT BUSH.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECURITIES ACT OF 1933

* * * * * * *

EXEMPTED SECURITIES

SEC. 3. * * *

* * * * * * *

(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors.

TRUST INDENTURE ACT OF 1939

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EXEMPTED SECURITIES AND TRANSACTIONS

SEC. 304. * * *

* * * * * * *

(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities it is not necessary in the public interest and for the protection of investors.

INVESTMENT COMPANY ACT OF 1940

* * * * * * *

CAPITAL STRUCTURE

SEC. 18. * * *

* * * * * * *

(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958.

INTERNAL REVENUE CODE OF 1954

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SEC. 165. Losses.

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(h) CROSS REFERENCES.

(1) For special rule for banks with respect to worthless securities see section 582.

(2) For disallowance of deduction for worthlessness of securities to which subsection (g) (2) (C) applies, if issued by a political party or similar organization, see section 271.

(3) For special rules for losses on stock in a small business investment company, see section 1242.

(4) For special rule for losses of a small business investment company, see section 1243.

* * * * * * *

SEC. 243. Dividends received by corporations.

(a) GENERAL RULE. In the case of a corporation (*other than a small business investment company operating under the Small Business Investment Act of 1958*), there shall be allowed as a deduction an amount equal to 85 percent of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on the preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter.

* * * * * * *

(c) Small Business Investment Company.—In the case of a small business investment company, there shall be allowed as a deduction an amount equal to 100 percent of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter.

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SEC. 246. Rules applying to deductions for dividends received.

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(b) LIMITATION ON AGGREGATE AMOUNT OF DEDUCTIONS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243 (*a*) *and* (*b*), 244, and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243 (*a*) *and* (*b*), 244, 245, and 247.

* * * * * * *

SEC. 1242. Losses on small business investment company stock.

In the case of a taxpayer if—

(1) A loss is on stock in a small business investment company operating under the Small Business Investment Act of 1958, and

(2) Such loss would (but for this section) be treated as a loss from the sale or exchange of a capital asset,

then such loss shall be treated as a loss from the sale or exchange of an asset which is not a capital asset.

Sec. 1243. Loss of small business investment company.

In the case of a small business investment company, if—

(1) A loss is on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 304 of the Small Business Investment Act of 1958, and

(2) Such loss would (but for this section) be treated as a loss from the sale or exchange of a capital asset,

then such loss shall be treated as a loss from the sale or exchange of an asset which is not a capital asset.

FEDERAL RESERVE ACT

* * * * * * *

Sec. 13. * * *

* * * * * * *

[b. (a) In exceptional circumstances, when it appears to the satisfaction of a Federal Reserve bank that an established industrial or commercial business located in its district is unable to obtain requisite financial assistance on a reasonable basis from the usual sources, the Federal Reserve bank, pursuant to authority granted by the Board of Governors of the Federal Reserve System, may make loans to, or purchase obligations of, such business, or may make commitments with respect thereto, on a reasonable and sound basis, for the purpose of providing it with working capital, but no obligation shall be acquired or commitment made hereunder with a maturity exceeding five years.

[(b) Each Federal Reserve bank shall also have power to discount for, or purchase from, any bank, trust company, mortgage company, credit corporation for industry, or other financing institution operating in its district, obligations having maturities not exceeding five years, entered into for the purpose of obtaining working capital for any such established industrial or commercial business; to make loans or advances direct to any such financing institution on the security of such obligations; and to make commitments with regard to such discount or purchase of obligations or with respect to such loans or advances on the security thereof, including commitments made in advance of the actual undertaking of such obligations. Each such financing institution shall obligate itself to the satisfaction of the Federal Reserve bank for at least 20 per centum of any loss which may be sustained by such bank upon any of the obligations acquired from such financing institution, the existence and amount of any such loss to be determined in accordance with regulations of the Board of Governors of the Federal Reserve System: *Provided,* That in lieu of such obligation against loss any such financing institution may advance at least 20 per centum of such working capital for any established industrial or commercial business without obligating itself to the Federal Reserve bank against loss on the amount advanced by the Federal Reserve bank: *Provided, however,* That such advances by the financing institution and the Federal Reserve bank shall be considered as one advance, and repayment shall be made pro rata under such regulations as the Board of Governors of the Federal Reserve System may prescribe.

[(c) The aggregate amount of loans, advances, and commitments of the Federal Reserve banks outstanding under this section at any one time, plus the amount of purchases and discounts under this section held at the same time, shall not exceed the combined surplus of the Federal Reserve banks as of July 1, 1934, plus all amounts paid to the Federal Reserve banks by the Secretary of the Treasury under subsection (e) of this section, and all operations of the Federal Reserve banks under this section shall be subject to such regulations as the Board of Governors of the Federal Reserve System may prescribe.

[(d) For the purpose of aiding the Federal Reserve banks in carrying out the provisions of this section, there is established in each Federal Reserve district an industrial advisory committee, to be appointed by the Federal Reserve bank subject to the approval and regulations of the Board of Governors of the Federal Reserve System, and to be composed of not less than three nor more than five members as determined by the Board of Governors of the Federal Reserve System. Each member of such committee shall be actively engaged in some industrial pursuit within the Federal Reserve district in which the committee is established, and each such member shall serve without compensation but shall be entitled to receive from the Federal Reserve bank of such district his necessary expenses while engaged in the business of the committee, or a per diem allowance in lieu thereof to be fixed by the Board of Governors of the Federal Reserve System. Each application for any such loan, advance, purchase, discount, or commitment shall be submitted to the appropriate committee and, after an examination by it of the business with respect to which the application is made, the application shall be transmitted to the Federal Reserve bank, together with the recommendation of the committee.

[(e) In order to enable the Federal Reserve banks to make the loans, discounts, advances, purchases, and commitments provided for in this section, the Secretary of the Treasury, on and after June 19, 1934, is authorized, under such rules and regulations as he shall prescribe, to pay to each Federal Reserve bank not to exceed such portion of the sum of $139,299,557 as may be represented by the amount paid by each Federal Reserve bank for stock of the Federal Deposit Insurance Corporation, upon the execution by each Federal Reserve bank of its agreement (to be endorsed on the certificate of such stock) to hold such stock unencumbered and to pay to the United States all dividends, all payments on liquidation, and all other proceeds of such stock, for which dividends, payments, and proceeds the United States shall be secured by such stock itself up to the total amount paid to each Federal Reserve bank by the Secretary of the Treasury under this section. Each Federal Reserve bank, in addition, shall agree that, in the event such dividends, payments, and other proceeds in any calendar year do not aggregate 2 per centum of the total payment made by the Secretary of the Treasury, under this section, it will pay to the United States in such year such further amount, if any, up to 2 per centum of the said total payment, as shall be covered by the net earnings of the bank for that year derived from the use of the sum so paid by the Secretary of the Treasury, and that for said amount so due the United States shall have a first claim against such earnings and stock, and further that it will continue such payments until the

final liquidation of said stock by the Federal Deposit Insurance Corporation. The sum so paid to each Federal Reserve bank within the meaning of this section. All amounts required to be expended by the Secretary of the Treasury in order to carry out the provisions of this section shall be paid out of the miscellaneous receipts of the Treasury created by the increment resulting from the reduction of the weight of the gold dollar under the President's proclamation of January 31, 1934; and there is appropriated, out of such receipts, such sum as shall be required for such purpose.]

SMALL BUSINESS ACT OF 1953

* * * * * * *

SEC. 207. * * *

* * * * * * *

(*c*) *The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agricultural studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of subsection* (*b*) (*4*) *of this section by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602* (*b*) *of the Small Business Investment Act of 1958.*

TITLE 18, UNITED STATES CODE

CRIMES AND CRIMINAL PROCEDURE

* * * * * * *

SEC. 217. Offer of loan or gratuity to bank examiner.

Whoever, being an officer, director or employee of a bank which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any National Agricultural Credit Corporation, or of any land bank, national farm loan association or other institution subject to examination by a farm credit examiner, *or of any small business investment company,* makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than $5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

The provisions of this section and section 218 of this title shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, or National Agricultural Credit Corporations, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve

bank or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any state; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank.

SEC. 218. Acceptance of loan or gratuity by bank examiner.

Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or banks the deposit of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, *or an examiner of small business investment companies*, accepts a loan or gratuity from any bank, corporation, association or organization examined by him or from any person connected therewith, shall be fined not more than $5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner.

* * * * * * *

SEC. 221. Receipt or charge of commissions or gifts for [farm loan or land bank] *farm loan, land bank, or small business* transactions.

Whoever, being an officer, director, attorney, or employee of a national farm loan association, a Federal land bank, or a joint-stock land bank, organized or acting under authority of any law of the United States, *or a small business investment company*, is a beneficiary of or receives, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank, other than the usual salary or director's fee paid to such officer, director, or employee thereof, and a reasonable fee paid by such association or bank to such officer, director, attorney, or employee for services rendered, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

Whoever causes or procures any Federal land bank, joint-stock land bank or national farm loan association, organized under any Act of Congress, *or any small business investment company*, to charge or receive any fee, commission, bonus, gift, or other consideration not specifically authorized, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

* * * * * * *

SEC. 657. Lending, credit and insurance institutions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, *or any small business investment company*, and whoever, being a receiver of any such institution, or agent or

employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

* * * * * * *

SEC. 1006. Federal credit institution entries, reports and transactions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, *or any small business investment company,* with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, of decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

* * * * * * *

SEC. 1014. Loan and credit applications generally; renewals and discounts; crop insurance.

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Reconstruction Finance Corporation, Farm Credit Administration, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any Federal intermediate credit bank, or the Federal Farm Mortgage Corporation, or any division officer, or employee thereof, or of any corporation organized under sections 1131–1134m of title 12, or of any regional agricultural credit corporation established pursuant to law, or of the National Agricul-

tural Credit Corporation, a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Savings and Loan Association, a Federal land bank, a joint-stock land bank, a National farm loan association, or of a Federal Reserve Bank, *or of a small business investment company*, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

O

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

[Report No. 1652]

IN THE SENATE OF THE UNITED STATES

APRIL 21, 1958

Mr. JOHNSON of Texas (for himself, Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CLARK, Mr. PROXMIRE, Mr. HILL, Mr. O'MAHONEY, Mr. HUMPHREY, Mr. BEALL, Mr. CASE of New Jersey, Mr. PAYNE, Mr. STENNIS, and Mr. LANGER) introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

JUNE 4, 1958

Reported by Mr. CLARK, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS~~

~~SHORT TITLE~~

~~SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Administration Act of 1958".~~

~~TABLE OF CONTENTS~~

~~TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS~~

~~SEC. 101. Short title.~~
~~SEC. 102. Statement of policy.~~
~~SEC. 103. Definitions.~~

~~TITLE II—SMALL BUSINESS POLICY BOARD~~

~~SEC. 201. Establishment of Board.~~
~~SEC. 202. Functions of the Board.~~

~~TITLE III—SMALL BUSINESS INVESTMENT ADMINISTRATION~~

~~SEC. 301. Organization of Small Business Investment Administration.~~
~~SEC. 302. Administrator.~~
~~SEC. 303. Powers of Administrator.~~
~~SEC. 304. Deposit of funds and civil-service contributions.~~
~~SEC. 305. Provision of funds.~~
~~SEC. 306. Purposes of revolving fund.~~

~~TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES~~

~~SEC. 401. Organization of small business investment companies.~~
~~SEC. 402. Capital-stock provisions.~~
~~SEC. 403. Borrowing power.~~
~~SEC. 404. Provision of equity capital for small-business concerns.~~
~~SEC. 405. Long-term loans to small-business concerns.~~
~~SEC. 406. Aggregate limitations.~~
~~SEC. 407. Exemptions.~~
~~SEC. 408. Tax provisions.~~
~~SEC. 409. Miscellaneous.~~

~~TITLE V—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES~~

~~TITLE VI—STATE AND LOCAL DEVELOPMENT COMPANIES~~

~~TITLE VII—CHANGES IN FEDERAL RESERVE AUTHORITY~~

~~SEC. 701. Repeal of section 13b of Federal Reserve Act.~~
~~SEC. 702. Return of funds to Treasury.~~
~~SEC. 703. Authority to sell assets to small business investment companies.~~

~~TITLE VIII—CRIMINAL PENALTIES~~

1 ~~STATEMENT OF POLICY~~

2 ~~SEC. 102. It is declared to be the policy of the Congress~~
3 ~~and the purpose of this Act to improve and stimulate the~~
4 ~~national economy in general and the small-business segment~~
5 ~~thereof in particular by establishing a program to stimulate~~

~~and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization.~~

~~DEFINITIONS~~

~~SEC. 103. (a) As used in this Act—~~

~~(1) the term "Board" means the Small Business Policy Board established by section 201;~~

~~(2) the term "Administration" means the Small Business Investment Administration established by section 301;~~

~~(3) the term "Administrator" means the Administrator of the Small Business Investment Administration as provided in section 302;~~

~~(4) the term "company" means a small business investment company organized as provided in title IV;~~

~~(5) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;~~

~~(6) the term "small-business concern" means a business concern, incorporated or unincorporated, which is not dominant in a well-established industry or line of business, and which meets the more detailed standards~~

~~and criteria prescribed by the Board under section 202 (c).~~

~~(7) the term "investment companies" means investment companies as defined in section 3 of the Investment Company Act of 1940 which are subject to the provisions of that Act; and~~

~~(8) the term "State and local development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small business concerns in the areas covered by their operations.~~

~~TITLE II—SMALL BUSINESS POLICY BOARD~~

~~ESTABLISHMENT OF BOARD~~

~~SEC. 201. There is hereby created the Small Business Policy Board, which shall consist of the following members, all ex officio: The Secretary of the Treasury, the Secretary of Commerce, the Administrator of the Small Business Administration, and the Administrator of the Small Business Investment Administration. The President shall rotate the chairmanship of the Board once each year between the Small Business Administrator and the Small Business Investment Administrator. Either of the said Secretaries may designate an officer of his Department, who has been appointed by the President by and with the advice and consent of the~~

1 ~~Senate, to act in his stead as a member of the Board with~~
2 ~~respect to any matter or matters.~~

3 ~~FUNCTIONS OF THE BOARD~~

4 ~~SEC. 202. (a) The Board shall establish general pol-~~
5 ~~icies (particularly with reference to the public interest in-~~
6 ~~volved) governing the approval and disapproval of appli-~~
7 ~~cations for financial assistance by the Small Business~~
8 ~~Administration and the Small Business Investment Admin-~~
9 ~~istration.~~

10 ~~(b) The Board shall coordinate the activities of the~~
11 ~~Small Business Administration and the Small Business In-~~
12 ~~vestment Administration, and shall coordinate their activities~~
13 ~~with other activities and policies of the Government.~~

14 ~~(c) As soon as practicable after the date of the enact-~~
15 ~~ment of this Act, the Board shall prescribe detailed standards~~
16 ~~and criteria for the definition or definitions of the term~~
17 ~~"small business concern", as used in this Act and in the~~
18 ~~Small Business Act of 1953, as amended, which standards~~
19 ~~and criteria may be based upon, but shall not be limited to,~~
20 ~~such things as number of employees, assets, volume of sales,~~
21 ~~and other factors related to the concern's relative position in~~
22 ~~its industry or line of business.~~

23 ~~(d) The Board shall promulgate standards to deter-~~
24 ~~mine the eligibility of small business concerns for the assist-~~

1 ~~ance provided by this Act and by the Small Business Act~~
2 ~~of 1953, as amended. In promulgating such standards,~~
3 ~~which may differ according to the type of assistance involved~~
4 ~~and any other relevant factors, the Board shall give con-~~
5 ~~sideration to—~~
6 ~~(1) the need to promote the development and~~
7 ~~growth of small-business concerns so as to enable them~~
8 ~~to make their maximum contribution to productive~~
9 ~~investment and employment and to the economic stability~~
10 ~~and growth of the Nation;~~
11 ~~(2) the need to make capital for such concerns~~
12 ~~more readily available in adequate amounts and on rea-~~
13 ~~sonable terms;~~
14 ~~(3) the need to facilitate maximum participation~~
15 ~~of private financial institutions and investors in finance-~~
16 ~~ing these concerns; and~~
17 ~~(4) the need to supplement the existing facilities of~~
18 ~~banks and other private financial institutions through the~~
19 ~~program of assistance provided under this Act.~~
20 ~~(c) Section 203 of the Small Business Act of 1953, as~~
21 ~~amended, is hereby amended to read as follows:~~
22 ~~"For the purposes of this title, a small-business concern~~
23 ~~means a business concern, incorporated or unincorporated,~~
24 ~~which is not dominant in a well-established industry or line~~

of business, and which meets the more detailed standards and criteria prescribed by the Small Business Policy Board established by the Small Business Investment Administration Act of 1958."

(f) Section 204 (d) of the Small Business Act of 1953, as amended, is hereby repealed.

TITLE III—SMALL BUSINESS INVESTMENT ADMINISTRATION

ORGANIZATION OF SMALL BUSINESS INVESTMENT ADMINISTRATION

SEC. 301. There is hereby created an independent agency of the United States Government to be known as the Small Business Investment Administration. The principal office of the Administration shall be located in the District of Columbia, but the Administration may establish such branch and regional offices in the United States as may be determined by the Administrator.

ADMINISTRATOR

SEC. 302. The management of the Administration shall be vested in an Administrator appointed by the President by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate of $20,000 per annum. In addition to receiving such compensation, the Administrator shall be reimbursed for neces-

1 ~~sary traveling and subsistence expenses, or paid a per diem~~
2 ~~allowance in lieu thereof within the limits prescribed by law,~~
3 ~~while away from his official station upon official business.~~

4 ~~POWERS OF ADMINISTRATOR~~

5 ~~SEC. 303. (a) The Administrator shall have power to~~
6 ~~adopt, alter, and use a seal, which shall be judicially noticed.~~
7 ~~The Administrator is authorized, subject to the civil-service~~
8 ~~and classification laws, to select, employ, appoint, and fix~~
9 ~~the compensation of such officers, employees, attorneys, and~~
10 ~~agents as shall be necessary to carry out the provisions of~~
11 ~~this Act, to define their authority and duties, to provide~~
12 ~~bonds for them in such amounts as the Administrator shall~~
13 ~~determine, and to pay the costs of qualification of certain of~~
14 ~~them as notaries public. The Administration, with the con-~~
15 ~~sent of any board, commission, independent agency (par-~~
16 ~~ticularly the Small Business Administration), or executive~~
17 ~~department of the Government, may avail itself on a reim-~~
18 ~~bursable basis of the use of information, services, facilities,~~
19 ~~including any field service thereof, officers, and employees~~
20 ~~thereof, in carrying out the provisions of this title. Subject~~
21 ~~to the standards and procedures under section 505 of the~~
22 ~~Classification Act of 1949, as amended, not to exceed fifteen~~
23 ~~positions in the Small Business Investment Administration~~
24 ~~may be placed in grades 16, 17, and 18 of the General Sched-~~

1 ~~ule established by that Act, and any such positions shall be~~
2 ~~additional to the number authorized by such section.~~
3 ~~(b) In the performance of, and with respect to, the~~
4 ~~functions, powers, and duties vested in him by this title,~~
5 ~~the Administrator may—~~
6 ~~(1) sue and be sued in any court of record of a~~
7 ~~State having general jurisdiction, or in any United~~
8 ~~States district court, and jurisdiction is conferred upon~~
9 ~~such district court to determine such controveries with-~~
10 ~~out regard to the amount in controversy: *Provided,*~~
11 ~~That no attachment, injunction, garnishment, or other~~
12 ~~similar process, mesne or final, shall be issued against~~
13 ~~the Administrator or his property;~~
14 ~~(2) under regulations prescribed by him, assign or~~
15 ~~sell at public or private sale, or otherwise dispose of~~
16 ~~for cash or credit, in his discretion and upon such terms~~
17 ~~and conditions and for such consideration as the Admin-~~
18 ~~istrator shall determine to be reasonable, any evidence~~
19 ~~of debt, contract, claim, personal property, or security~~
20 ~~assigned to or held by him in connection with the pay-~~
21 ~~ment of loans granted under this Act, and to collect or~~
22 ~~compromise all obligations assigned to or held by him~~
23 ~~and all legal or equitable rights accruing to him in con-~~

~~nection with the payment of such loans until such time as such obligation may be referred to the Attorney General for suit or collection;~~

~~(3) deal with, complete, renovate, improve, modernize, insure, or rent, or sell for cash or credit upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any real property conveyed to or otherwise acquired by him in connection with the payment of loans granted under this Act;~~

~~(4) pursue to final collection, by way of compromise or otherwise, all claims against third parties assigned to the Administrator in connection with loans made by him. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator. Section 3709 of the Revised Statutes, as amended (41 U. S. C. 5), shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of loans made under this Act if the premium therefor or the amount thereof does not exceed $1000. The power to convey and to execute in the name of the Administrator deeds of conveyance, deeds of release, assignments and satisfactions of mort-

~~gages, and any other written instrument relating to real property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator or by any officer or agent appointed by him without the execution of any express delegation of power or power of attorney. Nothing in this section shall be construed to prevent the Administrator from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint;~~

~~(5) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in this Act;~~

~~(6) make such rules and regulations as he deems necessary to carry out the authority vested in him by or pursuant to this title; and~~

~~(7) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided,* That no attorneys' services shall be pro-~~

1 ~~cured by contract in any office where an attorney or~~
2 ~~attorneys are or can be economically employed full~~
3 ~~time to render such services.~~
4 ~~(c) To such extent as he finds necessary to carry out~~
5 ~~the provisions of this Act, the Administrator is hereby au-~~
6 ~~thorized to procure the temporary (not in excess of six~~
7 ~~months) service of experts or consultants or organizations~~
8 ~~thereof, including stenographic reporting services, by con-~~
9 ~~tract or appointment, and in such cases such services shall~~
10 ~~be without regard to the civil-service and classification laws,~~
11 ~~and, except in the case of stenographic reporting services~~
12 ~~by organizations, without regard to section 3709, Revised~~
13 ~~Statutes, as amended (41 U. S. C. 5). Any individual so~~
14 ~~employed may be compensated at a rate not in excess of~~
15 ~~$50 per diem, and, while such individual is away from his~~
16 ~~home or regular place of business, he may be allowed trans-~~
17 ~~portation and not to exceed $15 per diem in lieu of sub-~~
18 ~~sistence and other expenses.~~
19 ~~DEPOSIT OF FUNDS AND CIVIL SERVICE CONTRIBUTIONS~~
20 ~~SEC. 304. (a) All moneys of the Administration not~~
21 ~~otherwise employed may be deposited with the Treasurer of~~
22 ~~the United States subject to check by authority of the Ad-~~
23 ~~ministration. The Federal Reserve banks are authorized and~~
24 ~~directed to act as depositaries, custodians, and fiscal agents~~
25 ~~for the Administration in the general performance of its~~

1 ~~powers conferred by this title. Any banks insured by the~~
2 ~~Federal Deposit Insurance Corporation, when designated by~~
3 ~~the Secretary of the Treasury, shall act as custodians and fi-~~
4 ~~nancial agents for the Administration. Each Federal Re-~~
5 ~~serve bank, when designated by the Administrator as fiscal~~
6 ~~agent for the Administration, shall be entitled to be reim-~~
7 ~~bursed for all expenses incurred as such fiscal agent.~~

8 ~~(b) The Administration shall contribute to the civil-~~
9 ~~service retirement and disability fund, on the basis of annual~~
10 ~~billings as determined by the Civil Service Commission, for~~
11 ~~the Government's share of the cost of the civil-service retire-~~
12 ~~ment system applicable to the employees engaged in carry-~~
13 ~~ing out the functions of this Act. The Administration shall~~
14 ~~also contribute to the employees' compensation fund, on the~~
15 ~~basis of annual billings as determined by the Secretary of~~
16 ~~Labor, for the benefit payments made from such fund on~~
17 ~~account of employees engaged in carrying out the functions~~
18 ~~financed by such revolving fund. The annual billings shall~~
19 ~~also include a statement of the fair portion of the cost of the~~
20 ~~administration of the respective funds, which shall be paid~~
21 ~~by the Administration into the Treasury as miscellaneous~~
22 ~~receipts.~~

23 ~~PROVISION OF FUNDS~~

24 ~~SEC. 305. (a) In order to finance activities as provided~~
25 ~~in section 306, the Administration is authorized and em-~~

1 ~~powered to issue to the Secretary of the Treasury notes and~~
2 ~~other obligations in an amount not exceeding $250,000,000~~
3 ~~outstanding at any one time: *Provided,* That the total~~
4 ~~amount of such obligations which may be outstanding dur-~~
5 ~~ing the first year after enactment shall not exceed $50,000,~~
6 ~~000, and during the second year after enactment shall not~~
7 ~~exceed $150,000,000. Such obligations shall be in such~~
8 ~~forms and denominations have such maturities, and be sub-~~
9 ~~ject to such terms and conditions as may be prescribed by~~
10 ~~the Administration, with the approval of the Secretary of~~
11 ~~the Treasury. Such notes or other obligations shall bear~~
12 ~~interest at a rate determined by the Secretary of the Treas-~~
13 ~~ury which shall not be more than the current average yields~~
14 ~~on outstanding marketable obligations of the United States~~
15 ~~of comparable maturities as of the last day of the month~~
16 ~~preceding the issuance of such notes or other obligations.~~
17 ~~The Secretary of the Treasury is authorized and directed~~
18 ~~to purchase any notes and other obligations of the Adminis-~~
19 ~~tration issued hereunder and for such purpose the Secretary~~
20 ~~of the Treasury is authorized to use as a public debt trans-~~
21 ~~action the proceeds from the sale of any securities issued~~
22 ~~under the Second Liberty Bond Act, as amended, and the~~
23 ~~purposes for which securities may be issued under such Act,~~

~~as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.~~

~~(b) Funds borrowed under this section and any proceeds shall constitute a revolving fund which may be used by the Administration in the exercise of its functions under this Act.~~

~~(c) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration.~~

~~PURPOSES OF REVOLVING FUND~~

~~SEC. 306. The Administration is authorized to use its revolving fund—~~

~~(1) to invest in small business investment companies as provided in section 404;~~

~~(2) to make loans to small business investment companies as provided in section 405; and~~

~~(3) to make loans to State and local development companies as provided in section 601.~~

~~TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES~~

~~ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES~~

~~SEC. 401. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons not less than five, who shall subscribe to the articles of incorporation of any such company.~~

~~(b) The articles of incorporation of any small-business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas where its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock; and the articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.~~

~~(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration~~

1 ~~shall give due regard, among other things, to the need for~~
2 ~~the financing of small-business concerns in the area in which~~
3 ~~the proposed company is to commence business, the general~~
4 ~~character of the proposed management of the company, the~~
5 ~~number of such companies previously organized in the~~
6 ~~United States, and the volume of their operations. After~~
7 ~~consideration of all relevant factors, the Administration may~~
8 ~~in its discretion approve the articles of incorporation and~~
9 ~~issue a permit to begin business.~~

10 ~~(d) Upon issuance of such permit, the company shall~~
11 ~~become and be a body corporate, and as such, and in the~~
12 ~~name designated in its articles, shall have power—~~

13 ~~(1) to adopt and use a corporate seal;~~

14 ~~(2) to have succession for a period of thirty years,~~
15 ~~unless extended as provided in section 409 (f), or~~
16 ~~unless sooner dissolved by the act of the shareholders~~
17 ~~owning two-thirds of the stock or by an Act of Congress,~~
18 ~~or unless its franchise becomes forfeited by some violation~~
19 ~~of law or regulation issued hereunder;~~

20 ~~(3) to make contracts;~~

21 ~~(4) to sue and be sued, complain, and defend in~~
22 ~~any court of law or equity;~~

23 ~~(5) by its board of directors, to appoint such offi-~~
24 ~~cers and employees as may be deemed proper, define~~

~~their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;~~

~~(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;~~

~~(7) to establish branch offices or agencies subject to the approval of the Administration;~~

~~(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;~~

~~(9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;~~

~~(10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and~~

~~(11) to exercise the other powers set forth in this Act and such incidental powers as may be reasonably necessary to carry on the business for which the company is established.~~

~~(c) The board of directors of each small business invest-~~

1 ~~ment company shall consist of nine members, all of whom~~
2 ~~shall be elected annually by the holders of the shares of~~
3 ~~stock of the company.~~

4 ~~CAPITAL STOCK PROVISIONS~~

5 ~~SEC. 402. (a) Each company organized under this Act~~
6 ~~shall have a paid-in capital and surplus equal to at least~~
7 ~~$500,000 before it shall commence business. In order to~~
8 ~~facilitate the formation of small-business investment com-~~
9 ~~panies, the Administration is hereby authorized, notwith-~~
10 ~~standing any other provisions of law, to invest in the shares~~
11 ~~of stock of such companies in an amount equal to not more~~
12 ~~than $250,000.~~

13 ~~(b) The shares of stock in any small-business invest-~~
14 ~~ment company shall be eligible for purchase by member~~
15 ~~banks of the Federal Reserve System, nonmember insured~~
16 ~~banks, financial institutions, insurance companies, corpora-~~
17 ~~tions, partnerships, or other persons. In no event shall any~~
18 ~~member bank of the Federal Reserve System or any non-~~
19 ~~member insured bank hold such shares in small business~~
20 ~~investment companies in an amount aggregating more than~~
21 ~~1 percent of the capital and surplus of such bank. Upon~~
22 ~~application of any such eligible purchaser, the Administra-~~
23 ~~tion shall sell to such purchaser all or a portion of such~~
24 ~~shares it may hold in a company.~~

25 ~~(c) The aggregate amount of shares in any such com-~~

1 ~~pany or companies which may be owned or controlled by~~
2 ~~any stockholder, or by any group or class of stockholders,~~
3 ~~may be limited by the Administration.~~

4 ~~BORROWING POWER~~

5 ~~SEC. 403. (a) Each small-business investment company~~
6 ~~shall have authority to borrow money and to issue its~~
7 ~~debenture bonds, promissory notes, or other obligations under~~
8 ~~such general conditions and subject to such limitations and~~
9 ~~regulations as the Administration may prescribe.~~

10 ~~(b) To encourage the formation and growth of small-~~
11 ~~business investment companies, the Administration is~~
12 ~~authorized to lend funds to such companies through the~~
13 ~~purchase of their obligations which shall bear interest at a~~
14 ~~rate, and contain such other terms, as the Administration~~
15 ~~may fix. The total amount of obligations purchased and~~
16 ~~outstanding at any one time by the Administration in any~~
17 ~~one company shall not exceed 50 percent of the paid-in~~
18 ~~capital and surplus of such company.~~

19 ~~PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS~~
20 ~~CONCERNS~~

21 ~~SEC. 404. (a) It shall be a primary function of each~~
22 ~~small-business investment company to provide a source of~~
23 ~~needed equity capital for small-business concerns which~~
24 ~~meet the standards of eligibility promulgated by the Board~~

~~under section 202, in the manner and subject to the conditions described in this section.~~

~~(b) Capital shall be provided by a company to a small business concern only through the purchase of debenture bonds (of such concern) which shall—~~

~~(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration;~~

~~(2) be callable on any interest payment date, upon three months' notice, at par plus accrued interest; and~~

~~(3) be convertible on any interest payment date prior to maturity (unless previously called), at the option of the company, into stock of such concern at the sound book value of such stock determined at the time of the issuance of the debenture bonds.~~

~~(c) Before any capital is provided to a small business concern under this section—~~

~~(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and~~

~~(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first se-~~

~~curing the approval of the company and giving the company the first opportunity to finance such indebtedness.~~

~~(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, as prescribed by the Administration.~~

~~LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS~~

~~SEC. 405. (a) Each Company is authorized to make loans, in the manner and subject to the conditions described in this section to incorporated and unincorporated small-business concerns which meet the standards of eligibility promulgated by the Board under section 202 in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.~~

~~(b) Loans made under this section may be made directly, or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.~~

~~(c) The maximum rate of interest for the company's share of any loan made under this section shall be determined by the Administration.~~

1 ~~(d) Loans made under this section shall have a maturity~~
2 ~~not exceeding thirty years.~~
3 ~~(e) All loans made under this section shall be of such~~
4 ~~sound value, or so secured, as reasonably to assure repay-~~
5 ~~ment.~~
6 ~~(f) Any company which has made a loan to a small-~~
7 ~~business concern under this section is authorized to extend~~
8 ~~the maturity of or renew such loan for additional periods not~~
9 ~~exceeding ten years if the company finds that such extension~~
10 ~~or renewal will aid in the orderly liquidation of such loan.~~
11 ~~AGGREGATE LIMITATIONS~~
12 ~~SEC. 406. Without the approval of the Administration,~~
13 ~~the aggregate amount of obligations and securities acquired~~
14 ~~and for which commitments may be issued by any small~~
15 ~~business investment company under the provisions of this~~
16 ~~Act for any single enterprise shall not exceed 33⅓ percent of~~
17 ~~the combined capital and surplus of such small business in-~~
18 ~~vestment company authorized by this Act.~~
19 ~~EXEMPTIONS~~
20 ~~SEC. 407. (a) Section 3 of the Securities Act of 1933, as~~
21 ~~amended (15 U. S. C. 77C), is hereby amended by insert-~~
22 ~~ing at the end thereof the following new subsection (c):~~
23 ~~"(c) The Commission may from time to time by its~~
24 ~~rules and regulations, and subject to such terms and condi-~~
25 ~~tions as may be prescribed therein, add to the securities~~

1 ~~exempted as provided in this section any class of securities~~
2 ~~issued by a small business investment company under the~~
3 ~~Small Business Investment Administration Act of 1958 if~~
4 ~~it finds, having regard to the purposes of that Act, that the~~
5 ~~enforcement of this Act with respect to such securities is not~~
6 ~~necessary in the public interest and for the protection of~~
7 ~~investors.”~~

8 ~~(b) Section 304 of the Trust Indenture Act of 1939~~
9 ~~(15 U. S. C. 77 ddd) is hereby amended by adding the~~
10 ~~following subsection (c):~~

11 ~~“(c) The Commission may from time to time by its~~
12 ~~rules and regulations, and subject to such terms and condi-~~
13 ~~tions as may be prescribed herein, add to the securities~~
14 ~~exempted as provided in this section any class of securities~~
15 ~~issued by a small business investment company under the~~
16 ~~Small Business Investment Administration Act of 1958 if~~
17 ~~it finds, having regard to the purposes of that Act, that the~~
18 ~~enforcement of this Act with respect to such securities is not~~
19 ~~necessary in the public interest and for the protection of~~
20 ~~investors.”~~

21 ~~TAX PROVISIONS~~

22 ~~SEC. 408. (a) Section 165 of the Internal Revenue~~
23 ~~Code of 1954 (relating to deduction for losses) is amended~~

1 ~~by adding at the end of subsection (h) the following new~~
2 ~~paragraphs:~~

> ~~"(3) For special rule for losses on stock in a small business investment company, see section 1242.~~
> ~~"(4) For special rule for losses of a small business investment company, see section 1243."~~

3 ~~(b) Subchapter (P) of the Internal Revenue Code of~~
4 ~~1954 is amended by adding at the end thereof the following~~
5 ~~new sections:~~

6 ~~"SEC. 1242. LOSSES ON SMALL BUSINESS INVESTMENT~~
7 ~~COMPANY STOCK.~~

8 ~~"In the case of a taxpayer if—~~

9 ~~"(1) A loss is on stock in a small business invest-~~
10 ~~ment company as organized under title IV of the Small~~
11 ~~Business Investment Administration Act of 1958, and~~

12 ~~"(2) Such loss would (but for this section) be~~
13 ~~treated as a loss from the sale or exchange of a capital~~
14 ~~asset,~~

15 ~~then such loss shall be treated as a loss from the sale or~~
16 ~~exchange of an asset which is not a capital asset.~~

17 ~~"SEC. 1243. LOSS OF SMALL BUSINESS INVESTMENT COM-~~
18 ~~PANY.~~

19 ~~"In the case of a small business investment company,~~
20 ~~if—~~

1 ~~"(1) A loss is on convertible debentures (including~~
2 ~~stock received pursuant to the conversion privilege)~~
3 ~~acquired pursuant to section 404 of the Small Business~~
4 ~~Investment Administration Act of 1958, and~~
5 ~~"(2) Such loss would (but for this section) be~~
6 ~~treated as a loss from the sale or exchange of a capital~~
7 ~~asset,~~
8 ~~then such loss shall be treated as a loss from the sale or ex-~~
9 ~~change of an asset which is not a capital asset."~~
10 ~~(c) Section 243 of the Internal Revenue Code of 1954~~
11 ~~(relating to dividends received by corporations) is amended~~
12 ~~as follows:~~
13 ~~(1) by striking from subsection (a) the following~~
14 ~~language "In the case of a corporation" and inserting~~
15 ~~in lieu thereof the following language "In the case of~~
16 ~~a corporation (other than a small business investment~~
17 ~~company as defined in the Small Business Investment~~
18 ~~Administration Act of 1958)."~~
19 ~~(2) By adding at the end thereof the following~~
20 ~~new subsection:~~
21 ~~"(c) SMALL BUSINESS INVESTMENT COMPANY.—~~
22 ~~In the case of a small business investment company, there~~
23 ~~shall be allowed as a deduction an amount equal to 100 per-~~
24 ~~cent of the amount received as dividends (other than divi-~~
25 ~~dends described in paragraph (1) of section 244, relating~~

1 ~~to dividends on preferred stock of a public utility) from a~~
2 ~~domestic corporation which is subject to taxation under this~~
3 ~~chapter."~~

4 ~~(d) Section 246 (b) (1) is amended by striking "243"~~
5 ~~wherever appearing and inserting in lieu thereof "243 (a)~~
6 ~~and (b)".~~

7 ~~MISCELLANEOUS~~

8 ~~SEC. 409. (a) Wherever practicable the operations of a~~
9 ~~small business investment company, including the genera-~~
10 ~~tion of business, may be undertaken in cooperation with~~
11 ~~banks or other financial institutions, and any servicing or~~
12 ~~initial investigation required for loans or acquisitions of~~
13 ~~securities by the company under the provisions of this Act~~
14 ~~may be handled through such banks or other financial insti-~~
15 ~~tutions on a fee basis. Any small business investment com-~~
16 ~~pany may receive fees for services rendered to such banks or~~
17 ~~other financial institutions.~~

18 ~~(b) Each small business investment company may make~~
19 ~~use, wherever practicable, of the advisory services of the Fed-~~
20 ~~eral Reserve System and of the Department of Commerce~~
21 ~~which are available for and useful to industrial and com-~~
22 ~~mercial businesses, and may provide consulting and advisory~~
23 ~~services on a fee basis and have on its staff persons competent~~
24 ~~to provide such services. Federal Reserve banks are author-~~
25 ~~ized to act as a depository or fiscal agent for any company~~

1 ~~organized under this Act. Such companies may invest~~
2 ~~funds not reasonably needed for their current operations in~~
3 ~~direct obligations of, or obligations guaranteed as to principal~~
4 ~~and interest by the United States.~~

5 ~~(c) The Administration is authorized to prescribe regu-~~
6 ~~lations governing the operations of small business investment~~
7 ~~companies and to carry out the provisions of this Act in ac-~~
8 ~~cordance with the purposes of this Act. Each small business~~
9 ~~investment company shall be subject to examinations made~~
10 ~~by direction of the Administration by examiners selected or~~
11 ~~approved by the Administration, and the cost of such exam-~~
12 ~~inations, including the compensation of the examiners, may~~
13 ~~in the discretion of the Administration be assessed against the~~
14 ~~company examined and when so assessed shall be paid by~~
15 ~~such company. Every such company shall make such re-~~
16 ~~ports to the Administration at such times and in such form as~~
17 ~~the Administration may require.~~

18 ~~(d) Should any small business investment company vio-~~
19 ~~late or fail to comply with any of the provisions of this Act~~
20 ~~or of regulations prescribed hereunder, all of its rights, privi-~~
21 ~~leges, and franchises derived herefrom may thereby be for-~~
22 ~~feited. Before any such company shall be declared dissolved,~~
23 ~~or its rights, privileges, and franchises forfeited, any non-~~
24 ~~compliance with or violation of this Act shall, however, be~~

1 ~~determined and adjudged by a court of the United States of~~
2 ~~competent jurisdiction in a suit brought for that purpose in~~
3 ~~the district, territory, or other place subject to the jurisdic-~~
4 ~~tion of the United States, in which the principal office of such~~
5 ~~company is located, which suit shall be brought by the~~
6 ~~United States at the instance of the Administration or the~~
7 ~~Attorney General.~~

8 ~~(e) Whenever in the judgment of the Administra-~~
9 ~~tion any person has engaged or is about to engage in any~~
10 ~~acts or practices which constitute or will constitute a viola-~~
11 ~~tion of any provision of this Act or of any regulation there-~~
12 ~~under, the Administration may make application to the~~
13 ~~proper district court of the United States, or the United~~
14 ~~States courts of any Territory or other place subject to the~~
15 ~~jurisdiction of the United States, for an order enjoining such~~
16 ~~acts or practices, or for an order enforcing compliance with~~
17 ~~such provision, and such courts shall have jurisdiction of~~
18 ~~such actions and upon a showing by the Administration that~~
19 ~~such person has engaged or is about to engage in any such~~
20 ~~acts or practices a permanent or temporary injunction, re-~~
21 ~~straining order, or other order, shall be granted without~~
22 ~~bond.~~

23 ~~(f) Any small business investment company may at any~~
24 ~~time within the two years next previous to the date of the~~

~~expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than thirty years, and upon approval of the Administration as provided in section 401 hereof such company shall have its corporate existence extended for such period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an Act of Congress or unless its franchise becomes forfeited as herein provided.~~

~~(g) Nothing in this Act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this Act.~~

~~TITLE V—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES~~

~~SEC. 501. (a) Any investment company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such corporation, with the approval of the Administration, be converted into a small business investment company under this Act.~~

~~(b) In such case the articles of association and organization certificate may be executed by a majority of the~~

~~directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment company. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever my be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.~~

~~(c) When the Administration has given to such company a certificate that the provisions of this Act have been complied with, such company, and all its stockholders, owners, and employees, shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by this Act for companies originally organized as small business investment companies.~~

~~TITLE VI—STATE AND LOCAL DEVELOPMENT COMPANIES~~

~~SEC. 601. (a) The Administration is authorized to make loans to State and local development companies provided that such funds be used only to supply equity capital to small-business concerns in a manner which will assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of such institution, which bear interest at a rate, and contain such other terms as the Administration may fix, and funds may be so advanced without regard to the use and investment by such institution of funds secured by it from other sources.~~

~~(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section to any one State or local development company shall not exceed 50 percent of such institution's paid-in capital and surplus.~~

~~TITLE VII—CHANGES IN FEDERAL RESERVE AUTHORITY~~

~~REPEAL OF SECTION 13B OF THE FEDERAL RESERVE ACT~~

~~SEC. 701. Effective one year after the date of enactment of this Act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to~~

1 ~~carry out, or protect its interest under, any agreement~~
2 ~~theretofore made or transaction entered into in carrying on~~
3 ~~operations under that section.~~

4 ~~RETURN OF FUNDS TO TREASURY~~

5 ~~SEC. 702. (a) Within sixty days after the enactment~~
6 ~~of this Act, each Federal Reserve bank shall pay to the~~
7 ~~United States the aggregate amount which the Secretary~~
8 ~~of the Treasury has heretofore paid to such bank under the~~
9 ~~provisions of section 13b of the Federal Reserve Act; and~~
10 ~~such payment shall constitute a full discharge of any obliga-~~
11 ~~tion or liability of the Federal bank to the United States~~
12 ~~or to the Secretary of the Treasury arising out of subsection~~
13 ~~(c) of said section 13b or out of any agreement thereunder.~~

14 ~~(b) The amounts repaid to the United States pursuant~~
15 ~~to section 202, and any remaining balance of the funds set~~
16 ~~aside in the Treasury for payments under section 13b of~~
17 ~~the Federal Reserve Act shall be covered into miscellaneous~~
18 ~~receipts.~~

19 ~~AUTHORITY TO SELL ASSETS TO SMALL BUSINESS~~
20 ~~INVESTMENT COMPANIES~~

21 ~~SEC. 703. Any small business investment company~~
22 ~~organized under this Act may purchase from any Federal~~
23 ~~Reserve bank, and any Federal Reserve bank is authorized~~
24 ~~to sell to any such company, at such reasonable price as~~

1 ~~may be agreed upon, any or all of the assets heretofore or~~
2 ~~hereafter acquired by such Reserve bank under the pro-~~
3 ~~visions of section 13b of the Federal Reserve Act.~~

4 ~~TITLE VIII—CRIMINAL PENALTIES~~

5 ~~SEC. 801. (a) The first paragraph of section 217 of~~
6 ~~title 18, United States Code, is amended by inserting after~~
7 ~~"farm credit examiner," the following: "or of any small~~
8 ~~business investment company,".~~

9 ~~(b) Section 218 of such title is amended by inserting~~
10 ~~after "National Agricultural Credit Corporations," the fol-~~
11 ~~lowing: "or an examiner of small business investment~~
12 ~~companies,".~~

13 ~~SEC. 802. (a) The first paragraph of section 221 of~~
14 ~~such title is amended by inserting after "United States,"~~
15 ~~the following: "or a small business investment company,".~~

16 ~~(b) The second paragraph of such section 221 is~~
17 ~~amended by inserting after "Congress," the following: "or~~
18 ~~any small business investment company,".~~

19 ~~(c) The heading of such section 221 is amended by~~
20 ~~striking out "farm loan or land bank" and inserting in lieu~~
21 ~~thereof "farm loan, land bank, or small business".~~

~~(d) The table of sections for chapter 11 of such title 18 is amended by striking out "farm loan or land bank" in the reference to section 221 and inserting in lieu thereof "farm loan, land bank, or small business".~~

~~SEC. 803. Section 657 of such title is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,".~~

~~SEC. 804. Section 1006 of such title is amended by inserting after "Federal Savings and Loan Insurance Corporations," the following: "or any small business investment company,".~~

~~SEC. 805. Section 1014 of such title is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company,".~~

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958".

TABLE OF CONTENTS

Title I—Short Title, Statement of Policy and Definitions

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

Title II—Small Business Investment Division of the Small Business Administration

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision of funds.
Sec. 203. Purposes of revolving fund.

Title III—Small Business Investment Companies

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Tax provisions.
Sec. 309. Miscellaneous.
Sec. 310. Approving State chartered companies for operations under this Act.

Title IV—Conversion of State Chartered Investment Companies and State Development Companies

Title V—Loans to State and Local Development Companies

Title VI—Changes in Federal Reserve Authority

Sec. 601. Repeal of section 13b of Federal Reserve Act.
Sec. 602. Fund for management counseling.

Title VII—Criminal Penalities

1 *STATEMENT OF POLICY*

2 *Sec. 102. It is declared to be the policy of the Congress*
3 *and the purpose of this Act to improve and stimulate the*
4 *national economy in general and the small-business segment*
5 *thereof in particular by establishing a program to stimulate*
6 *and supplement the flow of private equity capital and long-*
7 *term loan funds which small-business concerns need for the*

1 *sound financing of their business operations and for their*
2 *growth, expansion, and modernization, and which are not*
3 *available in adequate supply: Provided, however, That this*
4 *policy shall be carried out in such manner as to insure the*
5 *maximum participation of private financing sources.*

6 *It is the intention of the Congress that the provisions*
7 *of this Act shall be so administered that any financial as-*
8 *sistance provided hereunder shall not result in a substantial*
9 *increase of unemployment in any area of the country.*

10 DEFINITIONS

11 *SEC. 103. (a) As used in this Act—*

12 *(1) the term "Administration" means the Small*
13 *Business Administration;*

14 *(2) the term "Administrator" means the Adminis-*
15 *trator of the Small Business Administration;*

16 *(3) the term "company" means a small business*
17 *investment company organized as provided in title III;*

18 *(4) the term "United States" means the several*
19 *States, the Territories of Alaska and Hawaii, the Dis-*
20 *trict of Columbia, and the Commonwealth of Puerto*
21 *Rico;*

22 *(5) The term "small-business concern" shall have*
23 *the same meaning as in the Small Business Act of 1953.*

(6) the term "investment companies" means investment companies as defined in section 3 of the Investment Company Act of 1940 which are subject to the provisions of that Act; and

(7) the term "State and local development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The division shall be headed by a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this Act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be ex-

1 *ercised by him through the Deputy Administrator appointed*
2 *hereunder. In the performance of, and with respect to the*
3 *functions, powers, and duties vested in him by this Act, the*
4 *Administrator shall (in addition to any authority otherwise*
5 *vested in him by this Act) have the functions, powers, and*
6 *duties set forth in sections 205 and 206 of the Small Business*
7 *Act of 1953.*

8 PROVISION OF FUNDS

9 *SEC. 202. (a) In order to finance activities as provided*
10 *in section 203, the Administration is authorized and em-*
11 *powered to issue to the Secretary of the Treasury notes and*
12 *other obligations in an amount not exceeding $250,000,000*
13 *outstanding at any one time: Provided, That the total*
14 *amount of such notes and other obligations which may be out-*
15 *standing during the first year after enactment shall not exceed*
16 *$50,000,000, and during the second year after enactment*
17 *shall not exceed $150,000,000. Such notes and other obli-*
18 *gations shall be in such forms and denominations, have such*
19 *maturities, and be subject to such terms and conditions as may*
20 *be prescribed by the Administration, with the approval of the*
21 *Secretary of the Treasury. Such notes and other obligations*
22 *shall bear interest at a rate determined by the Secretary of*
23 *the Treasury which shall not be more than the current aver-*
24 *age yield on outstanding marketable obligations of the United*
25 *States of comparable maturities as of the last day of the*

1 *month preceding the issuance of such notes and other obliga-*
2 *tions. The Secretary of the Treasury is authorized to pur-*
3 *chase any notes and other obligations of the Administration*
4 *issued hereunder and for such purpose the Secretary of the*
5 *Treasury is authorized to use as a public debt transaction*
6 *the proceeds from the sale of any securities issued under the*
7 *Second Liberty Bond Act, as amended, and the purposes for*
8 *which securities may be issued under such Act are extended*
9 *to include any purchases of such notes and other obligations.*
10 *The Secretary of the Treasury may at any time sell any of*
11 *the notes and other obligations acquired by him under this*
12 *section. All redemptions, purchases, and sales by the Secre-*
13 *tary of the Treasury of such notes and other obligations shall*
14 *be treated as public debt transactions of the United States.*
15 *(b) Funds borrowed under this section and any pro-*
16 *ceeds therefrom shall constitute a revolving fund which may*
17 *be used by the Administration in the exercise of its functions*
18 *under this Act.*
19 *(c) There are hereby authorized to be appropriated*
20 *such sums as may be necessary and appropriate for the*
21 *administrative expenses of the Administration.*
22 *PURPOSES OF REVOLVING FUND*
23 *SEC. 203. The Administration is authorized to use its*
24 *revolving fund—*
25 *(1) to purchase the subordinated debentures of*

small business investment companies as provided in section 302;

(2) to make loans to small business investment companies as provided in section 303; and

(3) to make loans to State and local development companies as provided in sections 501 and 502.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than ten, who shall subscribe to the articles of incorporation of any such company: Provided, That no such company shall be chartered under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its

1 *affairs. Such articles and any amendments thereto adopted*
2 *from time to time shall be subject to the approval of the*
3 *Administration.*

4 *(c) The articles of incorporation and amendments*
5 *thereto shall be forwarded to the Administration for con-*
6 *sideration and approval or disapproval. In determining*
7 *whether to approve the establishment of such a company*
8 *and its proposed articles of incorporation, the Administration*
9 *shall give due regard, among other things, to the need for*
10 *the financing of small-business concerns in the area in which*
11 *the proposed company is to commence business, the general*
12 *character of the proposed management of the company, the*
13 *number of such companies previously organized in the*
14 *United States, and the volume of their operations. After*
15 *consideration of all relevant factors, the Administration may*
16 *in its discretion approve the articles of incorporation and*
17 *issue a permit to begin business.*

18 *(d) Upon issuance of such permit, the company shall*
19 *become and be a body corporate, and as such, and in the*
20 *name designated in its articles shall have power—*

21 *(1) to adopt and use a corporate seal;*

22 *(2) to have succession for a period of thirty years,*
23 *unless extended as provided in section 309 (f), or*
24 *unless sooner dissolved by the act of the shareholders*
25 *owning two-thirds of the stock or by an Act of Congress;*

or unless its franchise becomes forfeited by some violation of law or regulation issued hereunder;

(3) to make contracts;

(4) to sue and be sued, complain, and defend in any court of law or equity;

(5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;

(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;

(7) to establish branch offices or agencies subject to the approval of the Administration;

(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;

(9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;

(10) to operate in such area or areas as may be

1 *specified in its articles of incorporation and approved*
2 *by the Administration; and*
3 *(11) to exercise the other powers set forth in this*
4 *Act and such incidental powers as may reasonably be*
5 *necessary to carry on the business for which the company*
6 *is established.*
7 *(e) The board of directors of each small business invest-*
8 *ment company shall consist of nine members who shall be*
9 *elected annually by the holders of the shares of stock of the*
10 *company.*
11 CAPITAL STOCK AND SUBORDINATED DEBENTURES
12 SEC. *302. (a) Each company organized under this Act*
13 *shall have a paid-in capital and surplus equal to at least*
14 *$300,000 before it shall commence business. In order to*
15 *facilitate the formation of small business investment com-*
16 *panies, the Administration is hereby authorized, notwith-*
17 *standing any other provisions of law, to purchase the deben-*
18 *tures of any such company in an amount equal to not more*
19 *than $150,000. Any debentures purchased by the Admin-*
20 *istration under this subsection shall be subordinate to any*
21 *other debenture bonds, promissory notes, or other obligations*
22 *which may be issued by such companies, and shall be deemed*
23 *a part of the capital and surplus of such companies for pur-*
24 *poses of this section and sections 303 (b) and 306 of this*
25 *Act.*

1 *(b) The shares of stock in any small business invest-*
2 *ment company shall be eligible for purchase by member*
3 *banks of the Federal Reserve System, nonmember insured*
4 *banks, financial institutions, insurance companies, corpora-*
5 *tions, partnerships, or other persons. In no event shall any*
6 *member bank of the Federal Reserve System or any non-*
7 *member insured bank hold such shares in small business*
8 *investment companies in an amount aggregating more than*
9 *1 percent of the capital and surplus of such bank.*
10 *(c) The aggregate amount of shares in any such com-*
11 *pany or companies which may be owned or controlled by*
12 *any stockholder, or by any group or class of stockholders,*
13 *may be limited by the Administration.*
14 *BORROWING POWER*
15 *SEC. 303. (a) Each small business investment company*
16 *shall have authority to borrow money and to issue its*
17 *debenture bonds, promissory notes, or other obligations under*
18 *such general conditions and subject to such limitations and*
19 *regulations as the Administration may prescribe.*
20 *(b) To encourage the formation and growth of small*
21 *business investment companies, the Administration is*
22 *authorized to lend funds to such companies through the*
23 *purchase of their obligations which shall bear interest at such*
24 *rate, and contain such other terms, as the Administration*
25 *may fix. The total amount of obligations purchased and*

1 *outstanding at any one time by the Administration under this*
2 *subsection in any one company shall not exceed 50 percent*
3 *of the paid-in capital and surplus of such company.*

4 *PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS*
5 *CONCERNS*

6 *SEC. 304. (a) It shall be a primary function of each*
7 *small business investment company to provide a source of*
8 *needed equity capital for small-business concerns in the man-*
9 *ner and subject to the conditions described in this section.*

10 *(b) Capital shall be provided by a company to a small-*
11 *business concern under this section only through the purchase*
12 *of debenture bonds (of such concern) which shall—*

13 *(1) bear interest at such rate, and contain such*
14 *other terms, as the company may fix with the approval*
15 *of the Administration;*

16 *(2) be callable on any interest payment date, upon*
17 *three months' notice, at par plus accrued interest; and*

18 *(3) be convertible at the option of the company,*
19 *or a holder in due course, up to and including the*
20 *effective date of any call by the issuer, into stock of*
21 *the small-business concern at the sound book value of*
22 *such stock determined at the time of the issuance of the*
23 *debentures.*

24 *(c) Before any capital is provided to a small-business*
25 *concern under this section—*

1 *(1) the company may require such concern to*
2 *refinance any or all of its outstanding indebtedness so*
3 *that the company is the only holder of any evidence of*
4 *indebtedness of such concern; and*
5 *(2) except as provided in regulations issued by*
6 *the Administration, such concern shall agree that it will*
7 *not thereafter incur any indebtedness without first se-*
8 *curing the approval of the company and giving the*
9 *company the first opportunity to finance such indebted-*
10 *ness.*
11 *(d) Whenever a company provides capital to a small-*
12 *business concern under this section, such concern shall be*
13 *required to become a stockholder-proprietor of the company*
14 *by investing in the capital stock of the company, in an*
15 *amount equal to not less than 2 percent nor more than*
16 *5 percent of the amount of the capital so provided, in accord-*
17 *ance with regulations prescribed by the Administrator; except*
18 *that the Administrator may by regulation permit any such*
19 *concern to defer the purchase of such stock for a period of not*
20 *to exceed three years.*
21 *LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS*
22 *SEC. 305. (a) Each company is authorized to make*
23 *loans, in the manner and subject to the conditions described*
24 *in this section, to incorporated and unincorporated small-*
25 *business concerns in order to provide such concerns with*

1 *funds needed for sound financing, growth, modernization,*
2 *and expansion.*
3 *(b) Loans made under this section may be made*
4 *directly or in cooperation with other lending institutions*
5 *through agreements to participate on an immediate or*
6 *deferred basis.*
7 *(c) The maximum rate of interest for the company's*
8 *share of any loan made under this section shall be deter-*
9 *mined by the Administration.*
10 *(d) Any loan made under this section shall have a ma-*
11 *turity not exceeding thirty years.*
12 *(e) Any loan made under this section shall be of such*
13 *sound value, or so secured, as reasonably to assure repay-*
14 *ment.*
15 *(f) Any company which has made a loan to a small-*
16 *business concern under this section is authorized to extend*
17 *the maturity of or renew such loan for additional periods, not*
18 *exceeding ten years, if the company finds that such extension*
19 *or renewal will aid in the orderly liquidation of such loan.*
20 *AGGREGATE LIMITATIONS*
21 *SEC. 306. Without the approval of the Administration,*
22 *the aggregate amount of obligations and securities acquired*
23 *and for which commitments may be issued by any small*
24 *business investment company under the provisions of this*
25 *Act for any single enterprise shall not exceed 20 percent of*

1 *the combined capital and surplus of such small business in-*
2 *vestment company authorized by this Act.*

3 *EXEMPTIONS*

4 *SEC. 307. (a) Section 3 of the Securities Act of 1933, as*
5 *amended (15 U. S. C. 77c), is hereby amended by insert-*
6 *ing at the end thereof the following new subsection (c):*

7 *"(c) The Commission may from time to time by its*
8 *rules and regulations and subject to such terms and condi-*
9 *tions as may be prescribed therein, add to the securities*
10 *exempted as provided in this section any class of securities*
11 *issued by a small business investment company under the*
12 *Small Business Investment Act of 1958 if it finds, having*
13 *regard to the purposes of that Act, that the enforcement of*
14 *this Act with respect to such securities is not necessary in the*
15 *public interest and for the protection of investors."*

16 *(b) Section 304 of the Trust Indenture Act of 1939*
17 *(15 U. S. C. 77ddd) is hereby amended by adding the*
18 *following subsection (e):*

19 *"(e) The Commission may from time to time by its*
20 *rules and regulations, and subject to such terms and condi-*
21 *tions as may be prescribed herein, add to the securities*
22 *exempted as provided in this section any class of securities*
23 *issued by a small business investment company under the*
24 *Small Business Investment Act of 1958 if its finds, having*
25 *regard to the purposes of that Act, that the enforcement of*

1 *this Act with respect to such securities is not necessary in*
2 *the public interest and for the protection of investors."*
3 *(c) Section 18 of the Investment Company Act of*
4 *1940 (15 U. S. C. 80a) is amended by adding at the end*
5 *thereof the following:*
6 *"(k) The provisions of subparagraphs (A) and (B) of*
7 *paragraph (1) of subsection (a) of this section shall not*
8 *apply to investment companies operating under the Small*
9 *Business Investment Act of 1958."*

10 TAX PROVISIONS

11 *SEC. 308. (a) Section 165 of the Internal Revenue*
12 *Code of 1954 (relating to deduction for losses) is amended*
13 *by adding at the end of subsection (h) the following new*
14 *paragraphs:*

"(3) For special rule for losses on stock in a small business investment company, see section 1242.
"(4) For special rule for losses of a small business investment company, see section 1243."

15 *(b) Subchapter P of the Internal Revenue Code of*
16 *1954 is amended by adding at the end thereof the following*
17 *new sections:*

18 **"SEC. 1242. LOSSES ON SMALL BUSINESS INVESTMENT COM-**
19 **PANY STOCK.**

20 *"In the case of a taxpayer if—*
21 *"(1) A loss is on stock in a small business invest-*
22 *ment company operating under the Small Business In-*
23 *vestment Act of 1958, and*

1 *"(2) Such loss would (but for this section) be*
2 *treated as a loss from the sale or exchange of a capital*
3 *asset,*
4 *then such loss shall be treated as a loss from the sale or*
5 *exchange of an asset which is not a capital asset.*
6 ***"SEC. 1243. LOSS OF SMALL BUSINESS INVESTMENT COMPANY.***
7 *"In the case of a small business investment company,*
8 *if—*
9 *"(1) A loss is on convertible debentures (including*
10 *stock received pursuant to the conversion privilege)*
11 *acquired pursuant to section 304 of the Small Business*
12 *Investment Act of 1958, and*
13 *"(2) Such loss would (but for this section) be*
14 *treated as a loss from the sale or exchange of a capital*
15 *asset,*
16 *then such loss shall be treated as a loss from the sale or ex-*
17 *change of an asset which is not a capital asset."*
18 *(c) Section 243 of the Internal Revenue Code of 1954*
19 *(relating to dividends received by corporations) is amended*
20 *as follows:*
21 *(1) by striking from subsection (a) the following*
22 *language "In the case of a corporation" and inserting*
23 *in lieu thereof the following language "In the case of*
24 *a corporation (other than a small business investment*

company operating under the Small Business Investment Act of 1958)".

(2) By adding at the end thereof the following new subsection:

"(c) SMALL BUSINESS INVESTMENT COMPANY.—In the case of a small business investment company, there shall be allowed as a deduction an amount equal to 100 percent of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter."

(d) Section 246 (b) (1) of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of deductions for dividends received) is amended by striking "243" wherever appearing and inserting in lieu thereof "243 (a) and (b)".

MISCELLANEOUS

SEC. 309. (a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other financial

1 *institutions on a fee basis. Any small business investment*
2 *company may receive fees for services rendered to banks or*
3 *other financial institutions.*

4 *(b) Each small business investment company may make*
5 *use, wherever practicable, of the advisory services of the*
6 *Federal Reserve System and of the Department of Commerce*
7 *which are available for and useful to industrial and com-*
8 *mercial businesses, and may provide consulting and advisory*
9 *services on a fee basis and have on its staff persons competent*
10 *to provide such services. Any Federal Reserve bank is au-*
11 *thorized to act as a depository or fiscal agent for any com-*
12 *pany organized under this Act. Such companies may invest*
13 *funds not reasonably needed for their current operations in*
14 *direct obligations of, or obligations guaranteed as to principal*
15 *and interest by, the United States.*

16 *(c) The Administration is authorized to prescribe regu-*
17 *lations governing the operations of small business investment*
18 *companies, and to carry out the provisions of this Act, in ac-*
19 *cordance with the purposes of this Act. Each small business*
20 *investment company shall be subject to examinations made*
21 *by direction of the Administration by examiners selected or*
22 *approved by the Administration, and the cost of such exam-*
23 *inations, including the compensation of the examiners, may*
24 *in the discretion of the Administration be assessed against the*
25 *company examined and when so assessed shall be paid by*

1 *such company. Every such company shall make such re-*
2 *ports to the Administration at such times and in such form as*
3 *the Administration may require; except that the Adminis-*
4 *tration is authorized to exempt from making such reports*
5 *any such company which is registered under the Investment*
6 *Company Act of 1940 to the extent necessary to avoid*
7 *duplication in reporting requirements.*

8 *(d) Should any small business investment company vio-*
9 *late or fail to comply with any of the provisions of this Act*
10 *or of regulations prescribed hereunder, all of its rights, privi-*
11 *leges, and franchises derived therefrom may thereby be for-*
12 *feited. Before any such company shall be declared dissolved,*
13 *or its rights, privileges, and franchises forfeited, any non-*
14 *compliance with or violation of this Act shall be determined*
15 *and adjudged by a court of the United States of competent*
16 *jurisdiction in a suit brought for that purpose in the district,*
17 *territory, or other place subject to the jurisdiction of the*
18 *United States, in which the principal office of such company*
19 *is located. Any such suit shall be brought by the United*
20 *States at the instance of the Administration or the Attorney*
21 *General.*

22 *(e) Whenever in the judgment of the Administra-*
23 *tion any person has engaged or is about to engage in any*
24 *acts or practices which constitute or will constitute a viola-*
25 *tion of any provision of this Act or of any regulation there-*

1 *under, the Administration may make application to the*
2 *proper district court of the United States, or a United*
3 *States court of any Territory or other place subject to the*
4 *jurisdiction of the United States, for an order enjoining such*
5 *acts or practices, or for an order enforcing compliance with*
6 *such provision or regulation, and such courts shall have*
7 *jurisdiction of such actions and, upon a showing by the Ad-*
8 *ministration that such person has engaged or is about to*
9 *engage in any such acts or practices, a permanent or*
10 *temporary injunction, restraining order, or other order,*
11 *shall be granted without bond.*

12 *(f) Any small business investment company may at any*
13 *time within the two years next previous to the date of the*
14 *expiration of its corporate existence, by a vote of the share-*
15 *holders owning two-thirds of its stock, apply to the Admin-*
16 *istration for approval to extend the period of its corporate ex-*
17 *istence for a term of not more than thirty years, and upon*
18 *approval of the Administration, as provided in section 301*
19 *hereof, such company shall have its corporate existence ex-*
20 *tended for such approved period unless sooner dissolved by*
21 *the act of the shareholders owning two-thirds of its stock,*
22 *or by an Act of Congress, or unless its franchise becomes*
23 *forfeited as herein provided.*

24 *(g) Nothing in this Act or in any other provision of*
25 *law shall be deemed to impose any liability on the United*

1 *States with respect to any obligations entered into, or stocks*
2 *issued, or commitments made, by any company organized*
3 *under this Act.*

4 *APPROVING STATE CHARTERED COMPANIES FOR*
5 *OPERATIONS UNDER THIS ACT*

6 *SEC. 310. Any investment company chartered under the*
7 *laws of any State expressly for the purpose of operating*
8 *under this Act may with the approval of the Administrator*
9 *be permitted to operate under the provisions of this Act.*
10 *Upon such approval, which shall be given with due regard*
11 *to the factors specified in section 301 (c) with respect to*
12 *organization of small business investment companies, such*
13 *State investment company shall have the same powers and*
14 *privileges and shall be subject to the same duties, liabilities,*
15 *and regulations, in all respects, as are prescribed by this Act*
16 *for companies organized under section 301 as small business*
17 *investment companies.*

18 *TITLE IV—CONVERSION OF STATE CHAR-*
19 *TERED INVESTMENT COMPANIES AND*
20 *STATE DEVELOPMENT COMPANIES*

21 *SEC. 401. (a) Prior to July 1, 1961, any investment*
22 *company or any State development company may, by the*
23 *vote of the shareholders owning not less than 51 percent of*
24 *the capital stock of such company, with the approval of the*
25 *Administration, be converted into a small business invest-*

1 *ment company under this Act; except that nothing contained*
2 *herein shall be construed to supersede the laws of any State.*
3 *(b) In such case the articles of association and organi-*
4 *zation certificate may be executed by a majority of the*
5 *directors of the corporation, and the certificate shall declare*
6 *that the owners of 51 percent of the capital stock have*
7 *authorized the directors to make such certificate and to*
8 *change or convert the corporation into a small business in-*
9 *vestment company. A majority of the directors, after exe-*
10 *cuting the articles of association and the organization certifi-*
11 *cate, shall have power to execute all other papers and to*
12 *do whatever may be required to make its organization per-*
13 *fect and complete as a small business investment company.*
14 *The shares of any such company may continue to be for the*
15 *same amount each as they were before the conversion, and*
16 *the directors, regardless of number, may continue to be*
17 *directors of the corporation until the election of the board*
18 *of directors is held in accordance with regulations of the*
19 *Administration.*
20 *(c) When the Administration has given to such com-*
21 *pany a certificate that the provisions of this Act have been*
22 *complied with, such company shall have the same powers and*
23 *privileges and shall be subject to the same duties, liabilities,*
24 *and regulations, in all respects, as are prescribed by this*

Act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State and local development companies to assist in carrying out the purposes of this Act; except that no such loan shall be made to any local development company after June 30, 1961. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State or local development company shall not exceed the total amount borrowed by it from all other sources.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in coopera-

1 *tion with banks or other lending institutions through agree-*
2 *ments to participate on an immediate or deferred basis: Pro-*
3 *vided, however, That the foregoing powers shall be subject to*
4 *the following restrictions and limitations:*

5 *(1) All loans made shall be so secured as reasonably*
6 *to assure repayment. In agreements to participate in loans*
7 *on a deferred basis under this subsection, such participation*
8 *by the Administration shall not be in excess of 90 per centum*
9 *of the balance of the loan outstanding at the time of disburse-*
10 *ment.*

11 *(2) The proceeds of any such loan shall be used solely*
12 *by such borrower to assist an identifiable small-business con-*
13 *cern and for a sound business purpose approved by the Ad-*
14 *ministration.*

15 *(3) Loans made by the Administration under this sec-*
16 *tion shall be limited to $250,000 for each such identifiable*
17 *small-business concern.*

18 *(4) Any development company assisted under this sec-*
19 *tion must meet criteria established by the Administration, in-*
20 *cluding the extent of participation to be required or amount*
21 *of paid-in capital to be used in each instance as is determined*
22 *to be reasonable by the Administration.*

23 *(5) No loans, including extensions or renewals thereof,*
24 *shall be made by the Administration for a period or periods*
25 *exceeding ten years plus such additional period as is estimated*

1 *may be required to complete construction, conversion, or ex-*
2 *pansion, but the Administration may extend the maturity of*
3 *or renew any loan made pursuant to this section beyond the*
4 *period stated for additional periods, not to exceed ten years, if*
5 *such extension or renewal will aid in the orderly liquidation*
6 *of such loan. Any such loan shall bear interest at a rate fixed*
7 *by the Administration.*
8 *(6) No loan shall be made under this section to any local*
9 *development company after June 30, 1961.*

10 *TITLE VI—CHANGES IN FEDERAL RESERVE*
11 *AUTHORITY*

12 *REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT*

13 *SEC. 601. Effective one year after the date of enact-*
14 *ment of this Act, section 13b of the Federal Reserve Act*
15 *(12 U. S. C. 352a) is hereby repealed; but such repeal*
16 *shall not affect the power of any Federal Reserve bank to*
17 *carry out, or protect its interest under, any agreement*
18 *theretofore made or transaction entered into in carrying on*
19 *operations under that section.*

20 *FUND FOR MANAGEMENT COUNSELING*

21 *SEC. 602. (a) Within sixty days after the enactment*
22 *of this Act, each Federal Reserve bank shall pay to the*
23 *United States the aggregate amount which the Secretary*
24 *of the Treasury has heretofore paid to such bank under the*
25 *provisions of section 13b of the Federal Reserve Act; and*

1 *such payment shall constitute a full discharge of any obliga-*
2 *tion or liability of the Federal Reserve bank to the United*
3 *States or to the Secretary of the Treasury arising out of sub-*
4 *section (e) of said section 13b or out of any agreement*
5 *thereunder.*

6 *(b) The amounts repaid to the United States pursuant*
7 *to subsection (a) of this section shall be covered into a special*
8 *fund in the Treasury which shall be available for grants*
9 *under section 207 (c) of the Small Business Act of 1953.*
10 *Any remaining balance of funds set aside in the Treasury for*
11 *payments under section 13b of the Federal Reserve Act shall*
12 *be covered into the Treasury as miscellaneous receipts.*

13 *(c) Section 207 of the Small Business Act of 1953 is*
14 *amended by adding at the end thereof a new subsection as*
15 *follows:*

16 *"(c) The Administration also is empowered to make*
17 *grants to any State government, or any agency thereof,*
18 *State chartered development credit or finance corporations,*
19 *land-grant colleges and universities, and colleges and schools*
20 *of business, engineering, commerce, or agricultural studies,*
21 *research, and counseling concerning the managing, financing,*
22 *and operation of small-business enterprises and technical*
23 *and statistical information necessary thereto in order to carry*
24 *out the purposes of subsection (b) (4) of this section by*
25 *coordinating such information with existing information fa-*

1 *cilities within the State and by making such information*
2 *available to State and local agencies. Only one such grant*
3 *shall be made within any one State in any one year, and no*
4 *such grant shall exceed an aggregate amount of $40,000.*
5 *Such grants shall be made from the fund established in the*
6 *Treasury by section 602 (b) of the Small Business Invest-*
7 *ment Act of 1958."*

8 *TITLE VII—CRIMINAL PENALTIES*

9 *SEC. 701. (a) The first paragraph of section 217 of*
10 *title 18, United States Code, is amended by inserting after*
11 *"farm credit examiner," the following: "or of any small*
12 *business investment company,".*

13 *(b) Section 218 of such title is amended by inserting*
14 *after "National Agricultural Credit Corporations," the fol-*
15 *lowing: "or an examiner of small business investment*
16 *companies,".*

17 *SEC. 702. (a) The first paragraph of section 221 of*
18 *title 18, United States Code, is amended by inserting after*
19 *"United States," the following: "or a small business invest-*
20 *ment company,".*

21 *(b) The second paragraph of such section 221 is*
22 *amended by inserting after "Congress," the following: "or*
23 *any small business investment company,".*

24 *(c) The heading of such section 221 is amended by*

1 *striking out "farm loan or land bank" and inserting in lieu*
2 *thereof "farm loan, land bank, or small business".*
3 *(d) The table of sections for chapter 11 of such title 18*
4 *is amended by striking out "farm loan or land bank" in the*
5 *reference to section 221 and inserting in lieu thereof "farm*
6 *loan, land bank, or small business".*
7 *SEC. 703. Section 657 of title 18, United States Code,*
8 *is amended by inserting after "Federal Savings and Loan*
9 *Insurance Corporation," the following: "or any small busi-*
10 *ness investment company,".*
11 *SEC. 704. Section 1006 of title 18, United States Code,*
12 *is amended by inserting after "Federal Savings and Loan*
13 *Insurance Corporation," the following: "or any small busi-*
14 *ness investment company,".*
15 *SEC. 705. Section 1014 of title 18, United States Code,*
16 *is amended by inserting after "a Federal Reserve bank,"*
17 *the following: "or of a small business investment company,".*

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

[Report No. 1652]

A BILL

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

By Mr. JOHNSON of Texas, Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CLARK, Mr. PROXMIRE, Mr. HILL, Mr. O'MAHONEY, Mr. HUMPHREY, Mr. BEALL, Mr. CASE of New Jersey, Mr. PAYNE, Mr. STENNIS, and Mr. LANGER

APRIL 21, 1958

Read twice and referred to the Committee on Banking and Currency

JUNE 4, 1958

Reported with an amendment

Calendar No. 1653

[illegible]

S. 3651

IN THE SENATE OF THE UNITED STATES

[illegible]

[illegible]

AMENDMENTS

[illegible]

S. 3651

A BILL

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, viz:

1 On page 37, delete subsection 103 (a) (3) and insert
2 in lieu thereof, the following:
3 "(3) the terms 'small business investment com-
4 panies'; 'company'; 'small business investment com-
5 pany'; 'company organized under this Act'; mean a
6 small business investment company or companies, char-
7 tered under State laws for the purpose of operating
8 under this Act and authorized by the Administration,
9 as provided in Title III, to operate under this Act;"
10 On page 38, delete subsection 103 (a) (6).

1 On page 41, delete the word "Organization" from the
2 subtitle to section 301, and insert in lieu thereof, the word
3 "Qualification".

4 On page 41, delete subsection 301 (a), and insert in
5 lieu thereof, the following:

6 "SEC. 301. (a) Small business investment companies
7 formed by any number of persons, not less than ten, char-
8 tered under State laws for the purpose of operating under
9 this Act, may be authorized by the Administration to operate
10 under this Act."

11 On page 42, delete the last sentence of subsection
12 301 (b).

13 On pages 42 and 43, delete all of subsection 301 (c)
14 and the initial portion of subsection 301 (d) to and includ-
15 ing subparagraph "(2)" thereof; and insert in lieu thereof,
16 the following:

17 "(c) The articles of incorporation and amendments
18 thereto shall be forwarded to the Administration for con-
19 sideration. In determining whether to authorize such a
20 company to operate under this Act, the Administration shall
21 give due regard, among other things, to the need for the
22 financing of small-business concerns in the area in which the
23 proposed company is to commence business, the general
24 character of the proposed management of the company, the
25 number of such companies previously organized in the United

1 States, and the volume of their operations. After considera-
2 tion of all relevant factors, the Administration may in its
3 discretion grant authority to such a company to operate
4 under this Act.

5 "(d) Prior to the grant of such authority, the company
6 must have power—

7 "(1) to adopt and use a corporate seal;

8 "(2) to have succession for a period of thirty
9 years."

10 On page 44, delete subsection 301 (e).

11 On page 54, delete from lines 12 and 13, in the second
12 sentence of subsection 309 (d), the following words and
13 punctuation: "company shall be declared dissolved, or its
14 rights, privileges, and franchises forfeited,"; and insert in
15 lieu thereof, the following word and punctuation: "for-
16 feiture,".

17 On page 55, delete subsection 309 (f).

18 On page 56, delete section 310, including its subtitle.

19 On pages 56, 57, and 58, delete all of Title IV.

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit, more readily available for small-business concerns, and for other purposes, viz:

1 On page 58, delete all of section 501, and insert in lieu
2 thereof, the following:
3 "SEC. 501. The Administration is empowered to make
4 loans to State development corporations, which shall be evi-
5 denced by debentures, promissory notes, or other obligations
6 containing such conditions and in such form as may be
7 approved by the Administration, subject to the following
8 limitations:
9 "(1) Any funds loaned to a development corporation
10 under this subsection must be used solely for the purpose of

1 assisting small-business concerns and in accordance with
2 regulations promulgated by the Administration.
3 "(2) No loans including extensions or renewals thereof
4 may be made by the Administration for a period or periods
5 exceeding ten years that any loan made for the purposes of
6 constructing facilities may have a maturity of ten years plus
7 such additional period as is estimated may be required to
8 complete such construction: *Provided,* That the Administra-
9 tion may extend the maturity of or renew any loan made
10 pursuant to this subsection beyond the period stated for addi-
11 tional periods not to exceed ten years.
12 "(3) Loans made by the Administration under this
13 subsection to each State development corporation shall not
14 exceed the total amount borrowed by it from all other sources.
15 "(4) The Administration shall require, to the extent
16 feasible, that the funds borrowed under this subsection shall
17 be treated pari passu with those funds borrowed by the State
18 development corporations, regardless of source, having the
19 highest priority."
20 On page 60, lines 4 and 5, delete from the end of the
21 first sentence of paragraph (5) of section 502, the following
22 punctuation and words: ", if such extension or renewal
23 will aid in the orderly liquidation of such loan.".

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, viz:

1 On page 44, delete subsection 302 (a), and insert in
2 lieu thereof, the following:
3 "SEC. 302. (a) Each company organized under this
4 Act shall have a paid-in capital and surplus equal to at
5 least $150,000 before it shall commence business. In order
6 to facilitate the formation of small business investment com-
7 panies, the Administration is hereby authorized, notwith-
8 standing any other provisions of law, to purchase the deben-
9 tures of any such company, with maturities of not more than
10 twenty years, in an amount equal to not more than the paid-

1 in capital and surplus of the company. Any debentures
2 purchased by the Administration under this subsection shall
3 be subordinate to any other debenture bonds, promissory
4 notes, or other obligations of such company to its creditors,
5 to the extent prescribed by the Administrator."

6 On page 45, line 23, in the first sentence of subsection
7 303 (b), insert after the word "obligations", the following
8 words and punctuation: ", with maturities of not more than
9 ten years but extendible or renewable by the Administration
10 for additional periods not exceeding ten years,"; and on page
11 46, line 2, insert after the word "subsection", the following
12 words and reference: "and subsection 302 (a)", and, insert
13 after the word "exceed", the words: "two times", and, in
14 both lines 2 and 3, delete the figure and words: "50 percent
15 of".

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, viz:

1 On pages 39, 40, and 41, delete subsections 202 (a) and
2 (b) and section 203; and identify subsection 202 (c) as sub-
3 section "(b)"; and insert the following substitutional heading
4 (for section 202) and subsection 202 (a):

5 "PROVISION AND PURPOSES OF FUNDS

6 "SEC. 202. (a) Subsection (b) of section 204 of the
7 Small Business Act of 1953 is hereby amended as follows:

8 "(1) The figure '$530,000,000' shall be deleted wher-
9 ever it appears in such subsection and in lieu thereof there
10 shall be substituted the figure '$750,000,000'.

1 "(2) The word and reference 'and (b) (3)' at the
2 end of the fourth sentence in such subsection shall be deleted
3 and in lieu thereof shall be substituted the following refer-
4 ences, words, and punctuation: '(b) (3), and in the exercise
5 of functions of the Administration under the Small Business
6 Investment Act of 1958'.

7 "(3) The figure '$305,000,000' appearing in the fifth
8 sentence in such subsection shall be deleted and in lieu
9 thereof there shall be substituted the figure '$525,000,000'.
10 Further, the period at the end of such sentence shall be de-
11 leted and there shall be inserted the following additional
12 reference: 'and in the exercise of functions of the Adminis-
13 tration under the Small Business Investment Act of 1958'."

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, viz:

On page 38, delete line 19, and insert in lieu thereof the word "Administrator".

On page 39, delete from lines 3 and 5, the words "in him"; insert in line 4 after "Administrator" the words "and the Administration"; delete from line 6 the words and numbers "sections 205 and 206 of"; and in line 7 replace the period with a comma and add, "and the provisions of sections 209 and 219 of that Act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this Act."

6-6-58——G

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1958

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, viz:

1 On page 46, line 6, delete from subsection 304 (a) the
2 words "a primary", and insert in lieu thereof, the words:
3 "the sole".

4 On page 47, insert the following as subsection 304 (e):

5 "(e) The amount of investment of a company in the
6 stock of small business concerns, acquired by conversion of
7 debentures, shall not exceed the total paid-in capital and
8 surplus of the company, except with the approval of the
9 Administrator."

10 On pages 47 and 48, delete section 305, including its
11 subtitle.

6-6-58——K

Calendar No. 1683

85TH CONGRESS
2D SESSION

S. 3651

AMENDMENTS

Intended to be proposed by Mr. CAPEHART to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 6, 1958

Ordered to lie on the table and to be printed

S. 3651

AN ACT

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

JUNE 9, 1958

Ordered printed as passed

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—SHORT TITLE, STATEMENT OF PUR-
4 POSE, AND DEFINITIONS

5 SHORT TITLE

6 SEC. 101. This Act, divided into titles and sections
7 according to the following table of contents, may be cited as
8 the "Small Business Investment Act of 1958".

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY AND DEFINITIONS.

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision of funds.
Sec. 203. Purposes of revolving fund.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinate debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305 Long-term loans to small-business concerns.
Sec. 306 Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Tax provisions.
Sec. 309. Miscellaneous.
Sec. 310. Approving State chartered companies for operations under this Act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 601. Repeal of section 13b of Federal Reserve Act.
Sec. 602. Fund for management counseling.

TITLE VIII—CRIMINAL PENALTIES

1 STATEMENT OF POLICY

2 SEC. 102. It is declared to be the policy of the Congress
3 and the purpose of this Act to improve and stimulate the
4 national economy in general and the small-business segment
5 thereof in particular by establishing a program to stimulate
6 and supplement the flow of private equity capital and long-
7 term loan funds which small-business concerns need for the

1 sound financing of their business operations and for their
2 growth, expansion, and modernization, and which are not
3 available in adequate supply: *Provided, however,* That this
4 policy shall be carried out in such manner as to insure the
5 maximum participation of private financing sources.

6 It is the intention of the Congress that the provisions
7 of this Act shall be so administered that any financial as-
8 sistance provided hereunder shall not result in a substantial
9 increase of unemployment in any area of the country.

10 DEFINITIONS

11 SEC. 103. (a) As used in this Act—

12 (1) the term "Administration" means the Small
13 Business Administration;

14 (2) the term "Administrator" means the Adminis-
15 trator of the Small Business Administration;

16 (3) the term "company" means a small business
17 investment company organized as provided in title III;

18 (4) the term "United States" means the several
19 States, the Territories of Alaska and Hawaii, the Dis-
20 trict of Columbia, and the Commonwealth of Puerto
21 Rico;

22 (5) The term "small-business concern" shall have
23 the same meaning as in the Small Business Act of 1953.

1 (6) the term "investment companies" means in-
2 vestment companies as defined in section 3 of the In-
3 vestment Company Act of 1940 which are subject to
4 the provisions of that Act; and
5 (7) the term "State and local development com-
6 panies" means enterprises incorporated under State law
7 with the authority to promote and assist the growth
8 and development of small-business concerns in the areas
9 covered by their operations.

10 TITLE II—SMALL BUSINESS INVESTMENT
11 DIVISION OF THE SMALL BUSINESS AD-
12 MINISTRATION

13 ESTABLISHMENT OF SMALL BUSINESS INVESTMENT
14 DIVISION

15 SEC. 201. There is hereby established in the Small Busi-
16 ness Administration a division to be known as the Small
17 Business Investment Division. The Division shall be headed
18 by a Deputy Administrator who shall be appointed by the
19 Administrator, and shall receive compensation at the rate
20 provided by law for other deputy administrators of the Small
21 Business Administration. The powers conferred by this Act
22 upon the Administration shall be exercised by the Adminis-
23 tration through the Small Business Investment Division, and
24 the powers herein conferred upon the Administrator shall
25 be exercised by him through the Deputy Administrator ap-

1 pointed hereunder. In the performance of, and with respect
2 to the functions, powers, and duties vested by this Act, the
3 Administrator and the Administration shall (in addition to
4 any authority otherwise vested by this Act) have the func-
5 tions, powers, and duties set forth in the Small Business Act
6 of 1953, and the provisions of sections 209 and 219 of that
7 Act, insofar as applicable, are extended to apply to the
8 functions of the Administrator and the Administration under
9 this Act.

10 PROVISION OF FUNDS

11 SEC. 202. (a) In order to finance activities as provided
12 in section 203, the Administration is authorized and em-
13 powered to issue to the Secretary of the Treasury notes and
14 other obligations in an amount not exceeding $250,000,000
15 outstanding at any one time: *Provided,* That the total
16 amount of such notes and other obligations which may be
17 outstanding during the first year after enactment shall not ex-
18 ceed $50,000,000, and during the second year after enact-
19 ment shall not exceed $150,000,000. Such notes and other
20 obligations shall be in such forms and denominations, have
21 such maturities, and be subject to such terms and conditions
22 as may be prescribed by the Administration, with the ap-
23 proval of the Secretary of the Treasury. Such notes and
24 other obligations shall bear interest at a rate determined by
25 the Secretary of the Treasury which shall not be more than

1 the current average yield on outstanding marketable obliga-
2 tions of the United States of comparable maturities as of the
3 last day of the month preceding the issuance of such notes and
4 other obligations. The Secretary of the Treasury is author-
5 ized to purchase any notes and other obligations of the Ad-
6 ministration issued hereunder and for such purpose the Secre-
7 tary of the Treasury is authorized to use as a public debt
8 transaction the proceeds from the sale of any securities issued
9 under the Second Liberty Bond Act, as amended, and the
10 purposes for which securities may be issued under such Act
11 are extended to include any purchases of such notes and
12 other obligations. The Secretary of the Treasury may at any
13 time sell any of the notes and other obligations acquired by
14 him under this section. All redemptions, purchases, and
15 sales by the Secretary of the Treasury of such notes and
16 other obligations shall be treated as public debt transactions
17 of the United States.

18 (b) Funds borrowed under this section and any pro-
19 ceeds therefrom shall constitute a revolving fund which may
20 be used by the Administration in the exercise of its functions
21 under this Act.

22 (c) There are hereby authorized to be appropriated
23 such sums as may be necessary and appropriate for the
24 administrative expenses of the Administration.

PURPOSES OF REVOLVING FUND

SEC. 203. The Administration is authorized to use its revolving fund—

(1) to purchase the subordinated debentures of small business investment companies as provided in section 302;

(2) to make loans to small business investment companies as provided in section 303; and

(3) to make loans to State and local development companies as provided in sections 501 and 502.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than ten, who shall subscribe to the articles of incorporation of any such company: *Provided*, That no such company shall be chartered under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be

1 carried on, the place where its principal office is to be located,
2 and the amount and classes of its shares of capital stock.
3 Such articles may contain any other provisions not incon-
4 sistent with this Act that the company may see fit to adopt
5 for the regulation of its business and the conduct of its
6 affairs. Such articles and any amendments thereto adopted
7 from time to time shall be subject to the approval of the
8 Administration.

9 (c) The articles of incorporation and amendments
10 thereto shall be forwarded to the Administration for con-
11 sideration and approved or disapproval. In determining
12 whether to approve the establishment of such a company
13 and its proposed articles of incorporation, the Administration
14 shall give due regard, among other things, to the need for
15 the financing of small-business concerns in the area in which
16 the proposed company is to commence business, the general
17 character of the proposed management of the company, the
18 number of such companies previously organized in the
19 United States, and the volume of their operations. After
20 consideration of all relevant factors, the Administration may
21 in its discretion approve the articles of incorporation and
22 issue a permit to begin business.

23 (d) Upon issuance of such permit, the company shall
24 become and be a body corporate, and as such, and in the
25 name designated in its articles shall have power—

1 (1) to adopt and use a corporate seal;

2 (2) to have succession for a period of thirty years,
3 unless extended as provided in section 309 (f), or
4 unless sooner dissolved by the act of the shareholders
5 owning two-thirds of the stock or by an Act of Congress,
6 or unless its franchise becomes forfeited by some viola-
7 tion of law or regulation issued hereunder;

8 (3) to make contracts;

9 (4) to sue and be sued, complain, and defend in
10 any court of law or equity;

11 (5) by its board of directors, to appoint such offi-
12 cers and employees as may be deemed proper, define
13 their authority and duties, fix their compensation, re-
14 quire bonds of such of them as it deems advisable and
15 fix the penalty thereof, dismiss such officers or employees,
16 or any thereof, at pleasure, and appoint others to fill
17 their places;

18 (6) to adopt bylaws regulating the manner in which
19 its stock shall be transferred, its officers and employees
20 appointed, its property transferred, and the privileges
21 granted to it by law exercised and enjoyed;

22 (7) to establish branch offices or agencies subject
23 to the approval of the Administration;

24 (8) to acquire, hold, operate, and dispose of any

1 property (real, personal, or mixed) whenever necessary
2 or appropriate to the carrying out of its lawful functions;
3 (9) to act as depository or fiscal agent of the United
4 States when so designated by the Secretary of the
5 Treasury;
6 (10) to operate in such area or areas as may be
7 specified in its articles of incorporation and approved
8 by the Administration; and
9 (11) to exercise the other powers set forth in this
10 Act and such incidental powers as may reasonably be
11 necessary to carry on the business for which the company
12 is established.
13 (e) The board of directors of each small business invest-
14 ment company shall consist of nine members who shall be
15 elected annually by the holders of the shares of stock of the
16 company.
17 CAPITAL STOCK AND SUBORDINATED DEBENTURES
18 SEC. 302. (a) Each company organized under this Act
19 shall have a paid-in capital and surplus equal to at least
20 $300,000 before it shall commence business. In order to
21 facilitate the formation of small business investment com-
22 panies, the Administration is hereby authorized, notwith-
23 standing any other provisions of law, to purchase the deben-
24 tures of any such company in an amount equal to not more
25 than $150,000. Any debentures purchased by the Admin-

1 istration under this subsection shall be subordinate to any
2 other debenture bonds, promissory notes, or other obligations
3 which may be issued by such companies, and shall be deemed
4 a part of the capital and surplus of such companies for
5 purposes of this section and sections 303 (b) and 306 of
6 this Act.

7 (b) The shares of stock in any small business invest-
8 ment company shall be eligible for purchase by member
9 banks of the Federal Reserve System, nonmember insured
10 banks, financial institutions, insurance companies, corpora-
11 tions, partnerships, or other persons. In no event shall any
12 member bank of the Federal Reserve System or any non-
13 member insured bank hold such shares in small business
14 investment companies in an amount aggregating more than
15 1 percent of the capital and surplus of such bank.

16 (c) The aggregate amount of shares in any such com-
17 pany or companies which may be owned or controlled by
18 any stockholder, or by any group or class of stockholders,
19 may be limited by the Administration.

20 BORROWING POWER

21 SEC. 303. (a) Each small business investment company
22 shall have authority to borrow money and to issue its
23 debenture bonds, promissory notes, or other obligations under
24 such general conditions and subject to such limitations and
25 regulations as the Administration may prescribe.

1 (b) To encourage the formation and growth of small
2 business investment companies, the Administration is
3 authorized to lend funds to such companies through the
4 purchase of their obligations which shall bear interest at such
5 rate, and contain such other terms, as the Administration
6 may fix. The total amount of obligations purchased and
7 outstanding at any one time by the Administration under this
8 subsection in any one company shall not exceed 50 percent
9 of the paid-in capital and surplus of such company.

10 PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS
11 CONCERNS

12 SEC. 304. (a) It shall be a primary function of each
13 small business investment company to provide a source of
14 needed equity capital for small-business concerns in the man-
15 ner and subject to the conditions described in this section.

16 (b) Capital shall be provided by a company to a small-
17 business concern under this section only through the purchase
18 of debenture bonds (of such concern) which shall—

19 (1) bear interest at such rate, and contain such
20 other terms, as the company may fix with the approval
21 of the Administration;

22 (2) be callable on any interest payment date, upon
23 three months' notice, at par plus accrued interest; and

24 (3) be convertible at the option of the company,

1 or a holder in due course, up to and including the
2 effective date of any call by the issuer, into stock of
3 the small-business concern at the sound book value of
4 such stock determined at the time of the issuance of the
5 debentures.

6 (c) Before any capital is provided to a small-business
7 concern under this section—

8 (1) the company may require such concern to
9 refinance any or all of its outstanding indebtedness so
10 that the company is the only holder of any evidence of
11 indebtedness of such concern; and

12 (2) except as provided in regulations issued by
13 the Administration, such concern shall agree that it will
14 not thereafter incur any indebtedness without first se-
15 curing the approval of the company and giving the
16 company the first opportunity to finance such indebted-
17 ness.

18 (d) Whenever a company provides capital to a small-
19 business concern under this section, such concern shall be
20 required to become a stockholder-proprietor of the company
21 by investing in the capital stock of the company, in an
22 amount equal to not less than 2 percent nor more than
23 5 percent of the amount of the capital so provided, in accord-
24 ance with regulations prescribed by the Administrator; ex-

1 cept that the Administrator may by regulation permit any
2 such concern to defer the purchase of such stock for a period
3 of not to exceed three years.

4 LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

5 SEC. 305. (a) Each company is authorized to make
6 loans, in the manner and subject to the conditions described
7 in this section, to incorporated and unincorporated small-
8 business concerns in order to provide such concerns with
9 funds needed for sound financing, growth, modernization,
10 and expansion.

11 (b) Loans made under this section may be made
12 directly or in cooperation with other lending institutions
13 through agreements to participate on an immediate or
14 deferred basis.

15 (c) The maximum rate of interest for the company's
16 share of any loan made under this section shall be deter-
17 mined by the Administration.

18 (d) Any loan made under this section shall have a ma-
19 turity not exceeding twenty years.

20 (e) Any loan made under this section shall be of such
21 sound value, or so secured, as reasonably to assure repay-
22 ment.

23 (f) Any company which has made a loan to a small-
24 business concern under this section is authorized to extend

1 the maturity of or renew such loan for additional periods, not
2 exceeding ten years, if the company finds that such extension
3 or renewal will aid in the orderly liquidation of such loan.

4 AGGREGATE LIMITATIONS

5 SEC. 306. Without the approval of the Administration,
6 the aggregate amount of obligations and securities acquired
7 and for which commitments may be issued by any small
8 business investment company under the provisions of this
9 Act for any single enterprise shall not exceed 20 percent of
10 the combined capital and surplus of such small business
11 investment company authorized by this Act.

12 EXEMPTIONS

13 SEC. 307. (a) Section 3 of the Securities Act of 1933,
14 as amended (15 U. S. C. 77c), is hereby amended by in-
15 serting at the end thereof the following new subsection (c):
16 "(c) The Commission may from time to time by its
17 rules and regulations and subject to such terms and condi-
18 tions as may be prescribed therein, add to the securities
19 exempted as provided in this section any class of securities
20 issued by a small business investment company under the
21 Small Business Investment Act of 1958 if it finds, having
22 regard to the purposes of that Act, that the enforcement of
23 this Act with respect to such securities is not necessary in
24 the public interest and for the protection of investors."

1 (b) Section 304 of the Trust Indenture Act of 1939
2 (15 U. S. C. 77ddd) is hereby amended by adding the
3 following subsection (e):
4 "(e) The Commission may from time to time by its
5 rules and regulations, and subject to such terms and condi-
6 tions as may be prescribed herein, add to the securities
7 exempted as provided in this section any class of securities
8 issued by a small business investment company under the
9 Small Business Investment Act of 1958 if it finds, having
10 regard to the purposes of that Act, that the enforcement of
11 this Act with respect to such securities is not necessary in
12 the public interest and for the protection of investors."
13 (c) Section 18 of the Investment Company Act of
14 1940 (15 U. S. C. 80a) is amended by adding at the end
15 thereof the following:
16 "(k) The provisions of subparagraphs (A) and (B) of
17 paragraph (1) of subsection (a) of this section shall not
18 apply to investment companies operating under the Small
19 Business Investment Act of 1958."
20 MISCELLANEOUS
21 SEC. 308. (a) Wherever practicable the operations of
22 a small business investment company, including the genera-
23 tion of business, may be undertaken in cooperation with
24 banks or other financial institutions, and any servicing or
25 initial investigation required for loans or acquisitions of

1 securities by the company under the provisions of this Act
2 may be handled through such banks or other financial
3 institutions on a fee basis. Any small business investment
4 company may receive fees for services rendered to banks or
5 other financial institutions.

6 (b) Each small business investment company may make
7 use, wherever practicable, of the advisory services of the
8 Federal Reserve System and of the Department of Commerce
9 which are available for and useful to industrial and com-
10 mercial businesses, and may provide consulting and advisory
11 services on a fee basis and have on its staff persons competent
12 to provide such services. Any Federal Reserve bank is au-
13 thorized to act as a depository or fiscal agent for any com-
14 pany organized under this Act. Such companies may invest
15 funds not reasonably needed for their current operations in
16 direct obligations of, or obligations guaranteed as to principal
17 and interest by, the United States.

18 (c) The Administration is authorized to prescribe regu-
19 lations governing the operations of small business investment
20 companies, and to carry out the provisions of this Act, in ac-
21 cordance with the purposes of this Act. Each small business
22 investment company shall be subject to examinations made
23 by direction of the Administration by examiners selected or
24 approved by the Administration, and the cost of such exam-
25 inations, including the compensation of the examiners, may

1 in the discretion of the Administration be assessed against the
2 company examined and when so assessed shall be paid by
3 such company. Every such company shall make such re-
4 ports to the Administration at such times and in such form as
5 the Administration may require; except that the Adminis-
6 tration is authorized to exempt from making such reports
7 any such company which is registered under the Investment
8 Company Act of 1940 to the extent necessary to avoid
9 duplication in reporting requirements.

10 (d) Should any small business investment company vio-
11 late or fail to comply with any of the provisions of this Act
12 or of regulations prescribed hereunder, all of its rights, privi-
13 leges, and franchises derived therefrom may thereby be for-
14 feited. Before any such company shall be declared dissolved,
15 or its rights, privileges, and franchises forfeited, any non-
16 compliance with or violation of this Act shall be determined
17 and adjudged by a court of the United States of competent
18 jurisdiction in a suit brought for that purpose in the district,
19 territory, or other place subject to the jurisdiction of the
20 United States, in which the principal office of such company
21 is located. Any such suit shall be brought by the United
22 States at the instance of the Administration or the Attorney
23 General.

24 (e) Whenever in the judgment of the Administra-
25 tion any person has engaged or is about to engage in any

1 acts or practices which constitute or will constitute a viola-
2 tion of any provision of this Act or of any regulation there-
3 under, the Administration may make application to the
4 proper district court of the United States, or a United
5 States court of any Territory or other place subject to the
6 jurisdiction of the United States, for an order enjoining such
7 acts or practices, or for an order enforcing compliance with
8 such provision, or regulation, and such courts shall have
9 jurisdiction of such actions and, upon a showing by the Ad-
10 ministration that such person has engaged or is about to
11 engage in any such acts or practices, a permannt or tem-
12 porary injunction, restraining order, or other order, shall
13 be granted without bond.

14 (f) Any small business investment company may at any
15 time within the two years next previous to the date of the
16 expiration of its corporate existence, by a vote of the share-
17 holders owning two-thirds of its stock, apply to the Admin-
18 istration for approval to extend the period of its corporate ex-
19 istence for a term of not more than thirty years, and upon
20 approval of the Administration, as provided in section 301
21 hereof, such company shall have its corporate existence ex-
22 tended for such approved period unless sooner dissolved by
23 the act of the shareholders owning two-thirds of its stock,
24 or by an Act of Congress, or unless its franchise becomes
25 forfeited as herein provided.

1 (g) Nothing in this Act or in any other provision of
2 law shall be deemed to impose any liability on the United
3 States with respect to any obligations entered into, or stocks
4 issued, or commitments made, by any company organized
5 under this Act.

6 APPROVING STATE CHARTERED COMPANIES FOR
7 OPERATIONS UNDER THIS ACT

8 SEC. 309. Any investment company chartered under the
9 laws of any State expressly for the purpose of operating
10 under this Act may with the approval of the Administrator
11 be permitted to operate under the provisions of this Act.
12 Upon such approval, which shall be given with due regard
13 to the factors specified in section 301 (c) with respect to
14 organization of small business investment companies, such
15 State investment company shall have the same powers and
16 privileges and shall be subject to the same duties, liabilities,
17 and regulations, in all respects, as are prescribed by this Act
18 for companies organized under section 301 as small business
19 investment companies.

20 TITLE IV—CONVERSION OF STATE CHARTERED
21 INVESTMENT COMPANIES AND STATE DE-
22 VELOPMENT COMPANIES

23 SEC. 401. (a) Prior to July 1, 1961, any investment
24 company or any State development company may, by the
25 vote of the shareholders owning not less than 51 percent of

1 the capital stock of such company, with the approval of the
2 Administration, be converted into a small business invest-
3 ment company under this Act; except that nothing contained
4 herein shall be construed to supersede the laws of any State.
5 (b) In such case the articles of association and organi-
6 zation certificate may be executed by a majority of the
7 directors of the corporation, and the certificate shall declare
8 that the owners of 51 percent of the capital stock have
9 authorized the directors to make such certificate and to
10 change or convert the corporation into a small business in-
11 vestment company. A majority of the directors, after exe-
12 cuting the articles of association and the organization certifi-
13 cate, shall have power to execute all other papers and to
14 do whatever may be required to make its organization per-
15 fect and complete as a small business investment company.
16 The shares of any such company may continue to be for the
17 same amount each as they were before the conversion, and
18 the directors, regardless of number, may continue to be
19 directors of the corporation until the election of the board
20 of directors is held in accordance with regulations of the
21 Administration.
22 (c) When the Administration has given to such com-
23 pany a certificate that the provisions of this Act have been
24 complied with, such company shall have the same powers and
25 privileges and shall be subject to the same duties, liabilities,

1 and regulations, in all respects, as are prescribed by this
2 Act for companies originally organized as small business
3 investment companies.

4 TITLE V—LOANS TO STATE AND LOCAL DE-
5 VELOPMENT COMPANIES

6 SEC. 501. (a) The Administration is authorozed to
7 make loans to State and local development companies to
8 assist in carrying out the purposes of this Act; except that
9 no such loan shall be made to any local development company
10 after June 30, 1961. Any funds advanced under this sub-
11 section shall be in exchange for obligations of the devélop-
12 ment company which bear interest at such rate, and contain
13 such other terms, as the Administration may fix, and funds
14 may be so advanced without regard to the use and investment
15 by the devélopment company of funds secured by it from
16 other sources.

17 (b) The total amount of obligations purchased and out-
18 standing at any one time by the Administration under this
19 section from any one State or local development company
20 shall not exceed the total amount borrowed by it from all
21 other sources.

22 SEC. 502. The Administration may, in addition to its
23 authority under section 501, make loans for plant construc-
24 tion, conversion or expansion, including the acquisition of
25 land, to State and local development companies, and such

1 loans may be made or effected either directly or in coopera-
2 tion with banks or other landing institutions through agree-
3 ments to participate on an immediate or deferred basis: *Pro-*
4 *vided, however,* That the foregoing powers shall be subject to
5 the following restrictions and limitations:

6 (1) All loans made shall be so secured as reasonably
7 to assure repayment. In agreements to participate in loans
8 on a deferred basis under this subsection, such participation
9 by the Administration shall not be in excess of 90 per centum
10 of the balance of the loan outstanding at the time of dis-
11 bursement.

12 (2) The proceeds of any such loan shall be used solely
13 by such borrower to assist an identifiable small-business con-
14 cern and for a sound business purpose approved by the
15 Administration.

16 (3) Loans made by the Administration under this sec-
17 tion shall be limited to $250,000 for each such identifiable
18 small-business concern.

19 (4) Any development company assisted under this sec-
20 tion must meet criteria established by the Administration, in-
21 cluding the extent of participation to be required or amount
22 of paid-in capital to be used in each instance as is determined
23 to be reasonable by the Administration.

24 (5) No loans, including extensions or renewals thereof,
25 shall be made by the Administration for a period or periods

1 exceeding ten years plus such additional period as is estimated
2 may be required to complete construction, conversion, or
3 expansion, but the Administration may extend the maturity
4 of or renew any loan made pursuant to this section beyond
5 the period stated for additional periods, not to exceed ten
6 years, if such extension or renewal will aid in the orderly
7 liquidation of such loan. Any such loan shall bear interest
8 at a rate fixed by the Administration.

9 (6) No loan shall be made under this section to any
10 local development company after June 30, 1961.

11 TITLE VI—CHANGES IN FEDERAL RESERVE
12 AUTHORITY

13 REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

14 SEC. 601. Effective one year after the date of enact-
15 ment of this Act, section 13b of the Federal Reserve Act
16 (12 U. S. C. 352a) is hereby repealed; but such repeal
17 shall not affect the power of any Federal Reserve bank
18 to carry out, or protect its interest under, any agreement
19 theretofore made or transaction entered into in carrying on
20 operations under that section.

21 FUND FOR MANAGEMENT COUNSELING

22 SEC. 602. (a) Within sixty days after the enactment
23 of this Act, each Federal Reserve bank shall pay to the
24 United States the aggregate amount which the Secretary
25 of the Treasury has heretofore paid to such bank under the

1 provisions of section 13b of the Federal Reserve Act; and
2 such payment shall constitute a full discharge of any obliga-
3 tion or liability of the Federal Reserve bank to the United
4 States or to the Secretary of the Treasury arising out of sub-
5 section (e) of said section 13b or out of any agreement
6 thereunder.

7 (b) The amounts repaid to the United States pursuant
8 to subsection (a) of this section shall be covered into a spe-
9 cial fund in the Treasury which shall be available for grants
10 under section 207 (c) of the Small Business Act of 1953.
11 Any remaining balance of funds set aside in the Treasury for
12 payments under section 13b of the Federal Reserve Act shall
13 be covered into the Treasury as miscellaneous receipts.

14 (c) Section 207 of the Small Business Act of 1953 is
15 amended by adding at the end thereof a new subsection as
16 follows:

17 "(c) The Administration also is empowered to make
18 grants to any State government, or any agency thereof,
19 State chartered development credit or finance corporations,
20 land-grant colleges and universities, and colleges and schools
21 of business, engineering, commerce, or agricultural studies,
22 research, and counseling concerning the managing, financing,
23 and operation of small-business enterprises and technical
24 and statistical information necessary thereto in order to carry
25 out the purposes of subsection (b) (4) of this section by

1 coordinating such information with existing information fa-
2 cilities within the State and by making such information
3 available to State and local agencies. Only one such grant
4 shall be made within any one State in any one year, and no
5 such grant shall exceed an aggregate amount of $40,000.
6 Such grants shall be made from the fund established in the
7 Treasury by section 602 (b) of the Small Business Invest-
8 ment Act of 1958."

9 TITLE VII—CRIMINAL PENALTIES

10 SEC. 701. (a) The first paragraph of section 217 of
11 title 18, United States Code, is amended by inserting after
12 "farm credit examiner," the following: "or of any small
13 business investment company,".

14 (b) Section 218 of such title is amended by inserting
15 after "National Agricultural Credit Corporations," the fol-
16 lowing: "or an examiner of small business investment
17 companies,".

18 SEC. 702. (a) The first paragraph of section 221 of
19 title 18, United States Code, is amended by inserting after
20 "United States," the following: "or a small business invest-
21 ment company,".

22 (b) The second paragraph of such section 221 is
23 amended by inserting after "Congress," the following: "or
24 any small business investment company,".

25 (c) The heading of such section 221 is amended by

1 striking out "farm loan or land bank" and inserting in lieu
2 thereof "farm loan, land bank, or small business".
3 (d) The table of sections for chapter 11 of such title 18
4 is amended by striking out "farm loan or land bank" in the
5 reference to section 221 and inserting in lieu thereof "farm
6 loan, land bank, or small business".
7 SEC. 703. Section 657 of title 18, United States Code,
8 is amended by inserting after "Federal Savings and Loan
9 Insurance Corporation," the following: "or any small busi-
10 ness investment company,".
11 SEC. 704. Section 1006 of title 18, United States Code,
12 is amended by inserting after "Federal Savings and Loan
13 Insurance Corporation," the following: "or any small busi-
14 ness investment company,".
15 SEC. 705. Section 1014 of title 18, United States Code,
16 is amended by inserting after "a Federal Reserve bank,"
17 the following: "or of a small business investment company,".

Passed the Senate June 9, 1958.

Attest: FELTON M. JOHNSTON,

Secretary.

85TH CONGRESS
2D SESSION

S. 3651

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 1958

Ordered printed as passed

assessed valuation in the area over that shown by the assessment rolls for the base year of 1955–56. I understand the statutory procedure under which this is done is unique to the State of California, and thus far has been exercised only by the city of Sacramento.

The problem to which I refer arises in connection with the Independent Offices Appropriation bill for 1959 (H. R. 11574). As the bill comes to the Senate from the House, a direct appropriation of $117,255,000 is added for the construction of 66 of the public buildings projects which have been approved by the Public Works Committees, and a proviso prohibits payment on lease purchase contracts except for buildings used solely for post office purposes. The Federal office building for Sacramento is included in this item at a cost of $10,026,000 in direct appropriations.

I realize that is a matter for decision by your committee, whether, in each instance to construct Federal buildings by direct appropriation as opposed to lease-purchase contracts. But should you decide to concur in the direct-appropriation method, then the bonds sold by the redevelopment agency of the city of Sacramento would be without the proposed tax revenue, estimated at $122,000 annually, with which to make the payments on principal and interest. On this equitable basis, I believe an exception in the case of the city of Sacramento ought to be considered, and that that community be permitted the lease-purchase procedure which it undertook in good faith to carry out.

The General Services Administration has informed me that this is the only instance in which procurement of a site from a local, public redevelopment agency was proposed. This is the only instance where the local redevelopment agency has actually sold bonds to the public under the circumstances outlined in this letter.

In view of the commitments which have been made by the redevelopment agency of the city of Sacramento, in reliance on the approval of the project by the General Services Administration, and the approval of the House and Senate Committees on Public Works, it is urgently requested that your committee permit this project to continue under the purchase contract arrangements contemplated under the Public Buildings Purchase Contract Act of 1954.

Sincerely,

THOMAS H. KUCHEL,
United States Senator.

SACRAMENTO, CALIF., *June 6, 1958.*

Hon. THOMAS H. KUCHEL,
United States Senate, Washington, D. C.:

As you know from our previous expressions of concern with respect to this matter, it had been our hope that the Sacramento Federal Office Building and Courthouse could have proceeded under the 25-year lease-purchase method as contemplated by the Federal Government during the past 2 years. It was in anticipation of such a method of construction and purchase that the Sacramento redevelopment bond issue was floated and sold to the public in 1956. Your consistent support for the lease-purchase construction of this important Sacramento building and the earnest support of your colleagues therefore is deeply appreciated by all of us. I understand now that congressional approval for the full 25-year period of lease-purchase acquisition is highly improbable but that through the representations and through the pursuit of our interests by you and your colleagues it may now be possible to obtain a 10-year lease-purchase program for the Sacramento building. This possible alternative procedure has been discussed with the members of this redevelopment agency, with other concerned public officials in Sacramento, and with our financial consultants. While we would of course have to serve the 25-year arrangement, nevertheless, it is our studied conclusion that we unequivocally endorse and support this alternative arrangements of the Senate Committee and urge that you in turn express your support and endorsement to the various Members of the Senate concerned. Thank you for your continued diligent support of our public objectives in this important field.

FRED W. READ,
Chairman, Redevelopment Agency of the City of Sacramento.

Mr. DIRKSEN. Mr. President, what the distinguished Senator from California says underscores how difficult it is for the Congress to try to effectuate transition from one type of program to another without knowing in every instance what the effects and implications are to be.

In this particular case the city of Sacramento had already issued its bonds. They cannot be returned. Interest continues on the bonds. The city of Sacramento would have found itself in a very hopeless position if this situation had not been cured; but it will be taken care of by the language of the amendment which has been offered by the Senator from Illinois.

Mr. MAGNUSON. Mr. President, I thank the Senator from Illinois for his very kind remarks. I wish to add my tribute to ur very efficient clerk, Mr. Cooper, for his work on a very complicated and involved bill, which requires a great deal of time and effort.

At the appropriate point I shall offer an amendment on page 12, line 2, to strike out $181,816,000 and insert in lieu thereof $152,810,000, which would take care of the purposes of the amendment of the Senator from Illinois.

Mr. DIRKSEN. Mr. President, the purpose of the amendment to be offered by the distinguished chairman is merely to compensate the direct appropriation by reducing it in the amount which will be provided by lease-purchase funds.

The PRESIDING OFFICER. Is the Chair to understand that the Senator from Washington is offering a substitute amendment?

Mr. DIRKSEN. No. It will be considered separately, after the disposition of the amendment now pending. It is necessary to reduce the direct appropriation by roughly $29.1 million.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinoise [Mr. DIRKSEN].

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I offer an amendment, on page 12, line 2, to strike out "$181,816,000" and insert in lieu thereof "$152,810,000."

The PRESIDING OFFICER. Without objection, the vote by which the previous amendment on page 12, line 2, was agreed to, will be reconsidered.

Mr. MAGNUSON. Mr. President, I now offer my amendment, on page 12, line 2, to strike out "$181,816,000" and insert in lieu thereof "$152,810,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I address these remarks particularly to the Senator from Illinois [Mr. DIRKSEN], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from North Dakota [Mr. YOUNG], who are all members of the committee.

As shown by the report, the committee was impressed by the fact that there are large quantities of chrome ore stockpiled in various places in the West, in Kentucky, and in New York. There is an opportunity to convert these ores into a material usable by industry.

To begin the program the committee recommended an appropriation of $10.5 million. The time to convert such ores is when the plant capacity, manpower, and electric power are available.

In the report, on page 8, under the heading "Strategical and Critical Materials," the committee said:

> The committee is also advised that there are materials in the stockpile of subspecification grade which should be upgraded for use as specification grade material, and furthermore, that there are materials of specification grade which perhaps should be upgraded to another form.

When we speak of "specification grade" in the committee report, we are speaking of commercial specification grade. There might be room for some misinterpretation. The committee refers to usability in the commercial marget. I wish to make that clear. In that particular case the committee means commercial specification grades which are usable in regular industry.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. MANSFIELD. I had known about this part of the Independent Offices Appropriation bill, but I invite the Senator's attention to the fact that the Montana manganese plant, at Butte, Mont., has on hand in the stockpile something on the order of a $9 million investment by the Government. Unfortunately, one of the attributes of manganese is that if it remains in the stockpile, exposed to the open air, it deteriorates.

I tried to get Mr. Gordon Gray's agency, the Office of Defense Mobilization, to spend the necessary funds to beneficiate this manganese. So far I have achieved no success. Would it be possible, in view of the statement in the report, for the Office of Defense Mobilization, under Mr. Gordon Gray, to become seriously interested in upgrading or beneficiating the domestic stockpile of the Montana manganese plant, in Butte, Mont.?

Mr. MAGNUSON. Not only would it be possible, but, as the Senator from Illinois has stated, that is exactly what we intended. There are also stockpiles of ferro-chrome in Montana.

Mr. MANSFIELD. That is correct.

Mr. MAGNUSON. There are stockpiles of manganese, and other metals. It makes commonsense to upgrade this material, which we own, and put it in a condition in which it can be stored almost indefinitely. We shall have to do so anyway, if we intend to use the material. We should do it at a time

when plant capacity, manpower, and electric power are available.

The Senator from Montana has stated exactly what we intended. We started modestly. We cannot do everything at once, but the Office of Defense Mobilization, under Mr. Gordon Gray, has stated that, under the directive in the law, he could not go further than actual stockpiling. I believe Mr. Gray will welcome this provision. It makes good commonsense.

Mr. MANSFIELD. But it does apply to the Montana manganese stockpile in Butte, Mont., does it not?

Mr. MAGNUSON. It applies to Montana.

The first work under the program will probably be in connection with ferrochrome, because that deteriorates more rapidly. Next in order should be manganese, which would apply to the Montana situation.

Mr. MANSFIELD. I am delighted to have this assurance. I will take the matter up with Mr. Gray at the earliest opportunity, to see if he will not beneficiate the manganese stockpile in Butte, Mont.

Mr. MAGNUSON. It makes good commonsense.

Mr. DIRKSEN. Mr. President, as I recall, the President's Cabinet committee made an affirmative recommendation with respect to the beneficiation of critical and strategic materials in the stockpile. As the chairman points out, they can be more expeditiously used when they are beneficiated; and I believe there will be a substantial reduction in the storage cost. So, with everyone agreed as to what should be done, it was only a question of money. It is our understanding that this program will cost, roughly $21 million. So we have included half the amount in the pending bill. If, early next year, it becomes necessary to provide more, the agency can always submit a supplemental request through the Budget Bureau, so that the work can be carried to completion.

Mr. MANSFIELD. Mr. President, I am very much pleased with the unanimous action of the committee and the Senate in this respect. I certainly hope something will be done to bring about beneficiation of these ores.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. MAGNUSON. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HILL, Mr. ELLENDER, Mr. ROBERTSON, Mr. RUSSELL, Mr. MCCLELLAN, Mr. DIRKSEN, Mr. SALTONSTALL, Mr. MUNDT, Mr. POTTER, and Mr. YOUNG conferees on the part of the Senate.

SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar 1683, S. 3651.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 3651) to make equity capital and long-term credit more readily available for small business concerns, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Short title

SEC. 101. This act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

Table of contents

Title I—Short Title, Statement of Policy, and Definitions

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

Title II—Small Business Investment Division of the Small Business Administration

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision of funds.
Sec. 203. Purposes of revolving fund.

Title III—Small Business Investment Companies

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Tax provisions.
Sec. 309. Miscellaneous.
Sec. 310. Approving State chartered companies for operations under this act.

Title IV—Conversion of State Chartered Investment Companies and State Development Companies

Title V—Loans to State and Local Development Companies

Title VI—Changes in Federal Reserve Authority

Sec. 601. Repeal of section 13b of Federal Reserve Act.
Sec. 602. Fund for management counseling.

Title VII—Criminal Penalties

Statement of policy

SEC. 102. It is declared to be the policy of the Congress and the purpose of this act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

Definitions

SEC. 103. (a) As used in this act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the term "company" means a small-business investment company organized as provided in title III;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) The term "small-business concern" shall have the same meaning as in the Small Business Act of 1953.

(6) the term "investment companies" means investment companies as defined in section 3 of the Investment Company Act of 1940 which are subject to the provisions of that Act; and

(7) the term "State and local development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Establishment of Small Business Investment Division

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The division shall be headed by a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this Act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be exercised by him through the Deputy Administrator appointed hereunder. In the performance of, and with respect to the functions, powers, and duties vested in him by this Act, the Administrator shall (in addition to any authority otherwise vested in him by this Act) have the functions, powers, and duties set forth in sections 205 and 206 of the Small Business Act of 1953.

Provision of funds

SEC. 202. (a) In order to finance activities as provided in section 203, the Administration is authorized and empowered to issue to the Secretary of the Treasury notes and other obligations in an amount not exceeding $250,000,000 outstanding at any one time: *Provided,* That the total amount of such notes and other obligations which may be

outstanding during the first year after enactment shall not exceed $50,000,000, and during the second year after enactment shall not exceed $150,000,000. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Administration, with the approval of the Secretary of the Treasury. Such notes and other obligations shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of such notes and other obligations. The Secretary of the Treasury is authorized to purchase any notes and other obligations of the Administration issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes and other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes and other obligations shall be treated as public debt transactions of the United States.

(b) Funds borrowed under this section and any proceeds therefrom shall constitute a revolving fund which may be used by the Administration in the exercise of its functions under this Act.

(c) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration.

Purposes of revolving fund

SEC. 203. The Administration is authorized to use its revolving fund—

(1) to purchase the subordinated debentures of small business investment companies as provided in section 302;

(2) to make loans to small business investment companies as provided in section 303; and

(3) to make loans to State and local development companies as provided in sections 501 and 502.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Organization of small business investment companies

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided,* That no such company shall be chartered under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion approve the articles of incorporation and issue a permit to begin business.

(d) Upon issuance of such permit, the company shall become and be a body corporate, and as such, and in the name designated in its articles shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of 30 years, unless extended as provided in section 309 (f), or unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an act of Congress, or unless its franchise become forfeited by some violation of law or regulation issued hereunder;

(3) to make contracts;

(4) to sue and be sued, complain, and defend in any court of law or equity;

(5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;

(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;

(7) to establish branch offices or agencies subject to the approval of the Administration;

(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;

(9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;

(10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and

(11) to exercise the other powers set forth in this act and such incidental powers as may reasonably be necessary to carry on the business for which the company is established.

(e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stocks of the company.

Capital stock and subordinated debentures

SEC. 302. (a) Each company organized under this act shall have a paid-in capital and surplus equal to at least $300,000 before it shall commence business. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to not more than $150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deemed a part of the capital and surplus of such companies for purposes of this section and sections 303 (b) and 306 of this act.

(b) The shares of stock in any small business investment company shall be eligible for purchase by member banks of the Federal Reserve System, nonmember insured banks, financial institutions, insurance companies, corporations, partnerships, or other persons. In no event shall any member bank of the Federal Reserve System or any nonmember insured bank hold such shares in small business investment companies in an amount aggregating more than 1 percent of the capital and surplus of such bank.

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

Borrowing power

SEC. 303. (a) Each small business investment company shall have authority to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and subject to such limitations and regulations as the Administration may prescribe.

(b) To encourage the formation and growth of small business investment companies, the Administration is authorized to lend funds to such companies through the purchase of their obligations which shall bear interest at such rate, and contain such other terms, as the Administration may fix. The total amount of obligations purchased and outstanding at any one time by the Administration under this subsection in any one company shall not exceed 50 percent of the paid-in capital and surplus of such company.

Provision of equity capital for small-business concerns

SEC. 304. (a) It shall be a primary function of each small business investment company to provide a source of needed equity capital for small-business concerns in the manner and subject to the condition described in this section.

(b) Capital shall be provided by a company to a small-business concern under this section only through the purchase of debenture bonds (of such concern) which shall—

(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration:

(2) be callable on any interest payment date, upon 3 months' notice, at par plus accrued interest; and

(3) be convertible at the option of the company, or a holder in due course, up to and including the effective date of any call by the issuer, into stock of the small-business concern at the sound book value of such stock determined at the time of the issuance of the debentures.

(c) Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator; except that the Administrator may by regulation permit any such concern to defer the purchase of such stock for a period of not to exceed three years.

Long-term loans to small-business concerns

SEC. 305. (a) Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-

business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization and expansion.

(b) Loans made under this section may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.

(c) The maximum rate of interest for the company's share of any loan made under this section shall be determined by the Administration.

(d) Any loan made under this section shall have a maturity not exceeding 30 years.

(e) Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

(f) Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding 10 years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

Aggregate limitations

SEC. 306. Without the approval of the Administration, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this act for any single enterprise shall not exceed 20 percent of the combined capital and surplus of such small business investment company authorized by this act.

Exemptions

SEC. 307. (a) Section 3 of the Securities Act of 1933, as amended (15 U. S. C. 77c), is hereby amended by inserting at the end thereof the following new subsection (c):

"(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that act, that the enforcement of this act with respect to such securities is not necessary in the public interest and for the protection of investors."

(b) Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd) is hereby amended by adding the following subsection (e):

"(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that act, that the enforcement of this act with respect to such securities is not necessary in the public interest and for the protection of investors."

(c) Section 18 of the Investment Company Act of 1940 (15 U. S. C. 80a) is amended by adding at the end thereof the following:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958."

Tax provisions

SEC. 308. (a) Section 165 of the Internal Revenue Code of 1954 (relating to deduction for losses) is amended by adding at the end of subsection (h) the following new paragraphs:

"(3) For special rule for losses on stock in a small business investment company, see section 1242.

"(4) For special rule for losses of a small business investment company, see section 1243."

(b) Subchapter P of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new sections:

"SEC. 1242. Losses on small business investment company stock.

"In the case of a taxpayer if—

"(1) A loss is on stock in a small business investment company operating under the Small Business Investment Act of 1958, and

"(2) Such loss would (but for this section) be treated as a loss from the sale or exchange of a capital asset,

then such loss shall be treated as a loss from the sale or exchange of an asset which is not a capital asset.

"SEC. 1243. Loss of small business investment company.

"In the case of a small business investment company, if—

"(1) A loss is on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 304 of the Small Business Investment Act of 1958, and

"(2) Such loss would (but for this section) be treated as a loss from the sale or exchange of a capital asset,

then such loss shall be treated as a loss from the sale or exchange of an asset which is not a capital asset."

(c) Section 243 of the Internal Revenue Code of 1954 (relating to dividends received by corporations) is amended as follows:

(1) by striking from subsection (a) the following language "In the case of a corporation" and inserting in lieu thereof the following language "In the case of a corporation (other than a small business investment company operating under the Small Business Investment Act of 1958)".

(2) By adding at the end thereof the following new subsection:

"(c) Small business investment company. In the case of a small business investment company, there shall be allowed as a deduction an amount equal to 100 percent of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter."

(d) Section 246 (b) (1) of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of deductions for dividends received) is amended by striking "243" wherever appearing and inserting in lieu thereof "243 (a) and (b)".

Miscellaneous

SEC. 309. (a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other financial institutions on a fee basis. Any small business investment company may receive fees for services rendered to banks or other financial institutions.

(b) Each small business investment company may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any company organized under this act. Such companies may invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States.

(c) The Administration is authorized to prescribe regulations governing the operations of small business investment companies, and to carry out the provisions of this act, in accordance with the purposes of this act. Each small business investment company shall be subject to examinations made by direction by the Administration by examiners selected or approved by the Administration, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements.

(d) Should any small business investment company violate or fail to comply with any of the provisions of this act or of regulations prescribed hereunder, all of its rights, privileges, and franchises derived therefrom may thereby be forfeited. Before any such company shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of this act shall be determined and adjudged by a court of the United States of competent jurisdiction in a suit brought for that purpose in the district, Territory, or other place subject to the jurisdiction of the United States, in which the principal office of such company is located. Any such suit shall be brought by the United States at the insistence of the Administration or the Attorney General.

(e) Whenever in the judgment of the Administration any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this act or of any regulation thereunder, the Administration may make application to the proper district court of the United States, or a United States court of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision or regulation, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

(f) Any small business investment company may at any time within the 2 years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than 30 years, and upon approval by the Administration, as provided in section 301 hereof, such company shall have its corporate existence extended for such approved period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an act of Congress, or unless its franchise becomes forfeited as herein provided.

(g) Nothing in this act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this act.

Approving State chartered companies for operations under this act

SEC. 310. Any investment company chartered under the laws of any State expressly for the purpose of operating under this act

may with the approval of the administrator be permitted to operate under the provisions of this act. Upon such approval, which shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies, such State investment company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this act for companies organized under section 301 as small business investment companies.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

SEC. 401. (a) Prior to July 1, 1961, any investment company or any State development company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such company, with the approval of the Administration, be converted into a small business investment company under this act; except that nothing contained herein shall be construed to supersede the laws of any State.

(b) In such case the articles of association and organization certificate may be executed by a majority of the directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment company. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors, regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.

(c) When the Administration has given to such company a certificate that the provisions of this act have been complied with, such company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State and local development companies to assist in carrying out the purposes of this act; except that no such loan shall be made to any local development company after June 30, 1961. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State or local development company shall not exceed the total amount borrowed by it from all other sources.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $250,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding 10 years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed 10 years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

(6) No loan shall be made under this section to any local development company after June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Repeal of section 13b of the Federal Reserve Act

SEC. 601. Effective 1 year after the date of enactment of this act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under that section.

Fund for management counseling

SEC. 602. (a) Within 60 days after the enactment of this act, each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b or out of any agreement thereunder.

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 207 (c) of the Small Business Act of 1953. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act shall be covered into the Treasury as miscellaneous receipts.

(c) Section 207 of the Small Business Act of 1953 is amended by adding at the end thereof a new subsection as follows:

"(c) The Administration also is empowered to make grants to any State government or any agency thereof, State-chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agricultural studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of subsection (b) (4) of this section by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958."

TITLE VII—CRIMINAL PENALTIES

SEC. 701 (a) The first paragraph of section 217 of title 18, United States Code, is amended by inserting after "farm credit examiner," the following: "or of any small business investment company,".

(b) Section 218 of such title is amended by inserting after "National Agricultural Credit Corporations," the following: "or an examiner of small business investment companies,".

SEC. 702. (a) The first paragraph of section 221 of title 18, United States Code, is amended by inserting after "United States," the following: "or a small business investment company,".

(b) The second paragraph of such section 221 is amended by inserting after "Congress," the following: "or any small business investment company,".

(c) The heading of such section 221 is amended by striking out "farm loan or land bank" and inserting in lieu thereof "farm loan, land bank, or small business."

(d) The table of sections for chapter 11 of such title 18 is amended by striking out "farm loan or land bank" in the reference to section 221 and inserting in lieu thereof "farm loan, land bank, or small business."

SEC. 703. Section 657 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,".

SEC. 704. Section 1006 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,".

SEC. 705. Section 1014 of title 18, United States Code, is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company,".

Mr. JOHNSON of Texas. Mr. President, I wish to make a brief statement on the pending business, because I must be present at the marking up of the State-Justice-Judiciary appropriation bill at 2 o'clock this afternoon.

At the conclusion of my statement, I shall suggest the absence of a quorum. Then the distinguished chairman of the committee will make an explanatory statement. We expect to have some amendments offered to the bill.

Mr. President, I wish to express my appreciation for the perseverance, the intelligence, and the dedication to American free enterprise displayed by the chairman of the Small Business Subcommittee in the consideration of S. 3651. The Senator from Pennsylvania [Mr. CLARK], his colleagues on the subcommittee, and his very able staff have done a remarkable and vitally important job for the American people.

I want to take a moment, too, to remark on the efforts of other Senators in the field of small-business financing.

As Senators know, this problem has faced several Congresses. There has been, I think, general recognition of the nature of the problem. Businessmen and bankers, Members of Congress, and executive agencies have recognized that although short-term credit is often available to small business, long-term credit and equity financing is not. The question is not "What is the problem?" It is "How can the Government best help to answer the problem?"

The problem was outlined thoroughly and exhaustively in the hearings held last year by the House Small Business Committee under the able leadership of WRIGHT PATMAN who has devoted so much of his talents to small business.

A number of bills have been introduced in both Houses during this Congress, proposing various solutions to the problem. Among the Senate bills were S. 2160, sponsored by Senator SPARKMAN and Senators FULBRIGHT, CLARK, HILL, O'MAHONEY, and KEFAUVER; S. 2185, sponsored by Senator HUMPHREY; S. 2286, by Senator FULBRIGHT; S. 3191, by myself; and S. 3651, the bill before us today, which I sponsored together with Senators FULBRIGHT, SPARKMAN, CLARK, PROXMIRE, HILL, O'MAHONEY, HUMPHREY, BEALL, and CASE of New Jersey.

While these bills took different roads, they had the same destination: aid to small business and the protection of competitive enterprise.

With the reporting of S. 3651 to the Senate, we have an opportunity to approve a significant program of aid to small business. And it is a program, Mr. President, that does no violence to free enterprise, that does not raise the specter of Federal control of, and competition with, private business.

S. 3651 is a progressive and necessary bill. Its purpose is to provide assistance in an area where today neither Government nor private institutions can offer that assistance. As every Senator knows from his study of small business needs, commercial banks are not in the business of providing equity capital to small businesses. Neither are they prepared in most instances to offer long-term credit to such businesses. And while the Small Business Administration is authorized to make loans of a maximum 10-year duration, with a possible further 10-year extension, it cannot under law go further toward meeting the real long-term requirements of small businesses, and it cannot provide equity capital in any case.

As amended by the committee, S. 3651 would establish in the Small Business Administration an Investment Division. The division's functions would be three:

First. To charter, regulate, and examine small business investment companies.

Second. To lend funds to those companies.

Third. To lend funds to State and local development companies.

The division would be separated, as far as possible, from the SBA's other operations, because its function is distinct from those operations. From the nature of its job, it will not develop a staff of great size, for it will not be in contact with thousands of small businesses as is the present SBA. Its contacts will be, instead, with investment companies.

The idea of the investment companies is an old one, and it has many parallels on the statute books today. The national farm loan associations, under the land bank system; the savings and loan associations, under the home-loan bank system; the farm cooperatives, and so on—these institutions, like the investment companies proposed under S. 3651, were in the beginning financed in part by the Federal Government. Some of them are now wholly owned by the private citizens they were intended to benefit. The others are in the process of liquidating Federal ownership.

Eventual private ownership is what is proposed here for the small-business investment companies. It has worked before, to the general satisfaction of those concerned with the programs I have mentioned. And I may say that it has resulted in neither the socialization of our farms, of our homes, nor in any disastrous raids on the Treasury.

The investment companies will be organized by 10 or more persons, under charters granted by either the States or the SBA. They must have as capital and surplus, $300,000 before they commence business; half of that may be invested by the SBA. The SBA may also loan these companies funds up to one-half of their capital and surplus, as an encouragement to their speedy and effective growth.

The companies will then be in a position, Mr. President, to provide equity capital through the purchase of convertible debenture bonds, to small businesses, and to make 30-year loans.

The small businesses receiving equity capital from investment companies will be required to purchase stock in the companies, in an amount equaling from 2 to 5 percent of the capital received. In this way, private ownership of the companies will be realized.

This is the basic structure of the program spelled out in S. 3651.

Mr. President, there is no doubt about the need for the kind of assistance provided by this bill. The Rockefeller brothers' report on America at midcentury, discussing the needs of small business, had this to say:

> The need is primarily for long-term equity or loan funds. As a result of the inability to obtain capital funds, the opportunity for establishing a new firm, or for expanding an established firm, is often lost. Often the established firm merges with a larger enterprise that can command the necessary resources. The past few years have seen a wave of such mergers. Such a condition is neither conducive to vigorous competition nor to economic growth.

The Government cannot today answer to this need, Mr. President; neither can private lending institutions. Given the authority we propose in this bill, the need can, in part, be met. I believe my colleagues will be ready and willing to meet it, and thereby to strengthen free competitive enterprise in America.

Mr. President, I have talked with the distinguished senior Senator from Indiana [Mr. CAPEHART]. It is my understanding that the pending bill provides loans for a period of 30 years, with a 10-year liquidating period.

The Treasury feels it would be better if the 40-year period could be reduced. The distinguished Senator from Indiana proposes to reduce the loan period to 20 years and the liquidating period to 10 years. I have discussed this question with the members of the staff of the committee; and if and when the Senator from Indiana offers such an amendment, it will be acceptable.

Mr. CAPEHART. Mr. President, will the Senator yield? If he will, I will offer the amendment now.

Mr. JOHNSON of Texas. Very well.

Mr. CAPEHART. Mr. President, I offer an amendment reducing the loan term from 30 years to 20 years and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 48, it is proposed to delete from line 11 the word "thirty" and insert in lieu thereof the word "twenty."

Mr. CAPEHART. Mr. President, is the Senator from Arkansas willing to accept the amendment?

Mr. FULBRIGHT. I reluctantly accept it. I do not approve it. I think it is unfortunate that we are asked to accept it.

Mr. JOHNSON of Texas. We have attempted in the committee to meet every objection raised by the Treasury Department—at least, every objection as to which there was testimony.

I appreciate the patience and the understanding of the distinguished chairman of the committee and the members of the committee staff.

After the bill was reported, the Senator from Indiana spoke to me and made several suggestions which he felt were constructive. I have had the staff analyze those suggestions. While we prefer the provisions of the bill, nevertheless, in an attempt to obtain bipartisan support, in the hope that our actions can be made as unanimous as possible, we have agreed to accept this amendment and another amendment, which concerns the administration of the bill.

I hope the amendment just offered will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana [Mr. CAPEHART].

The amendment was agreed to.

Mr. JOHNSON of Texas. Mr. President, I think my colleagues are ready and willing to meet the situation facing the small business concerns and thereby to strengthen every competitive enterprise in the United States.

I understand the Senator from Indiana desires to offer another amendment on the subject of administration.

The PRESIDING OFFICER. The committee amendment is being considered as the text of the bill and will be so considered for the purpose of amendment.

Mr. JOHNSON of Texas. Mr. President, before any action is taken on the

bill, I shall suggest the absence of a quorum. I simply wanted to give the Senator from Indiana an opportunity to submit his other amendment.

Mr. CAPEHART. Mr. President, I offer my amendment, designated as 6-6-58—G, and ask that it be stated.

Mr. SPARKMAN. Mr. President, would it not be well to defer that action until some of the preliminary statements on the bill are made? Frankly, I wish to speak about the amendment before it is agreed to.

Mr. JOHNSON of Texas. Does the Senator from Alabama have any objection to making the amendment the pending amendment?

Mr. SPARKMAN. No; but I believe that the general statements on the bill should be made first.

Mr. JOHNSON of Texas. The Senator from Indiana having offered his amendment, the Senator from Alabama can make a statement about it.

Mr. SPARKMAN. Very well. I did not want it called up with the idea that it would be agreed to immediately. I shall not oppose the amendment, but I wish to say something about it.

The PRESIDING OFFICER. The amendment, proposed by the Senator from Indiana [Mr. CAPEHART], will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 38, it is proposed to delete line 19, and insert in lieu thereof the word "Administrator."

On page 39, to delete from lines 3 and 5, the words "in him"; in line 4 after "Administrator" the words "and the Administration"; delete from line 6 the words and numbers "sections 205 and 206 of"; and in line 7 replace the period with a comma and add, "and the provisions of sections 209 and 219 of that act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this act."

Mr. FULBRIGHT. Mr. President, I wish to speak in support of S. 3651 and to request its approval by the Senate.

First, I should like to inquire of the majority leader, who announced that he intended to hold hearings on the State Department appropriations bill, when he intends to hold hearings, because I am very much interest in that bill.

Mr. JOHNSON of Texas. We are not going to hold hearings. We plan to mark up the bill. I hope the Senator from Arkansas will proceed with his statement.

Mr. FULBRIGHT. There are certain items in that bill in which the Senator from Texas knows I am interested. Can he reserve action on them until I can be present? I wish to offer an amendment.

Mr. JOHNSON of Texas. Yes. We have that in mind, and have already done some work in the Senator's behalf.

Mr. FULBRIGHT. I thank the Senator from Texas.

Mr. President, I wish to speak in support of S. 3651 and to request its approval by the Senate. I believe the bill to be potentially one of the most significant measures presented to the Senate in the 85th Congress. I congratulate our Majority Leader, Senator Johnson of Texas—the principal sponsor of this bill—and the junior Senator from Pennsylvania [Mr. CLARK], the chairman of the Subcommittee on Small Business, which, subcommittee has worked diligently upon this proposal during both sessions of the 85th Congress. I also wish the Senate to recognize the contributions of Senators O'MAHONEY, and SPARKMAN, PROXMIRE, BEALL, PAYNE, and CASE, of the Committee on Banking and Currency—and other Senators from both sides of the aisle who have advocated the establishment of a Federal program similar to the provisions of S. 3651.

It should be made clear that S. 3651 is a product of the 85th Congress only to the extent that recognition of the need and proposed solutions have crystallized in the last 2 years. This is due in large part to studies and recommendations by the Board of Governors of the Federal Reserve System. I can say quite frankly that this bill would not be on the Senate floor today if it were not for the work and thoughtful consideration of small business financing problems undertaken by Federal Reserve Board Chairman Martin, his colleagues on the Board, and the very competent staffs of the Federal Reserve System.

The committee report explains in some detail the background of events leading up to the introduction and modification of S. 3651. I will not repeat these portions of the report, but I desire to emphasize some impressive testimony received by the Banking and Currency Committee in 1950. At that time the committee was considering S. 3625, entitled the "Small Business Act of 1950," sponsored by Senators O'MAHONEY, SPARKMAN, LUCAS, and MAYBANK. On June 22, 1950, Mr. Thomas B. McCabe, then Chairman of the Board of Governors of the Federal Reserve System, testified in favor of S. 3625, and stated quite clearly the need for a new type of financial institution. Mr. McCabe summarized his views, as follows:

1. There are pockets in which, for one reason or another, existing financing facilities do not fully meet the needs of small business.

2. Short- and medium-term financing generally presents no great problem, except perhaps in some localities and for very small, and often new, concerns. Commercial banks generally have demonstrated their willingness to provide such credit for the latter group. However, many banks, particularly the smaller banks, have not developed the necessary facilities to assure adequate coverage.

3. Easy availability of short- or medium-term credit may encourage businessmen to rely on it too heavily, even using it to finance long-term needs. Should profits decline or credit conditions become tighter, they may then find themselves in serious financial difficulties. What these small businesses really need is financing that will not be too burdensome when the going gets temporarily rough—in other words, equity capital and long-term credit. Moreover, they often need more equity capital in order to qualify for short- and intermediate-term loans from banks.

4. Small-business concerns do not have access to equity and long-term borrowed capital in the way that large companies do. For one thing, the costs of preparing and marketing a small equity or long-term debt issue are prohibitive. For another, there is frequently neither a new issue market nor a secondary market for the equity or long-term debt instruments of small businesses, either in the community where they are known or on the outside.

5. Neither stock nor bond financing in the forms generally available is what the small-business man is looking for. The sale of bonds and preferred stock is generally impractical, except to relatives and close friends. Frequently, the small-business man does not want to sell common stock. The sale of common stock to outsiders, unless to institutions especially authorized to participate on a limited basis, means that the small-business man will have to share the control of his business with others, or perhaps relinquish control. Most small-business men value their independence highly—that is one of the primary reasons why they go into business for themselves. Debt may prove to be a financial straitjacket in times of economic adversity.

6. The traditional suppliers of equity and long-term credit funds to small business—the friend of the family or the local financier—are becoming less and less important in the local financial picture. The growing difficulty of finding a partner, silent or otherwise, is due in part to tax considerations. Also, it is due in part to a change in investment preferences of individuals. There have been indications in recent years of a trend away from equity investment to life insurance, tax-exempt securities, and other highly liquid assets.

7. There are very few institutions in existence equipped to supply small business with both long-term credit and equity capital. There are, undoubtedly, many cases in which some combination of equity capital and long-term credit would prove more suitable than either one by itself. To meet such needs, financing must be tailored to the requirements of each individual business, and not offered in exactly the same form on a take-it or leave-it basis to all comers.

I subscribe wholeheartedly to the views expressed by Mr. McCabe. Nothing has happened in the intervening years to alter the situation. In fact, these considerations probably are more pertinent and serious today than they were in 1950. The overwhelming majority of witnesses before the Banking and Currency, in hearings last year and this year, agree, first, that a genuine need exists for a new source of long-term debt and equity financing for small businesses; second, that this need must be met; and third, that it is proper for the Federal Government to assist in launching private institutions to meet the need. S. 3651 is designed to satisfy these three general areas of agreement.

The Banking and Currency Committee has made a genuine effort to accept all reasonable and sincerely helpful suggestions. Any suggestions which were rejected were rejected for 1 of 2 principal reasons, first, the proposals were either incompatible with the basic conception of the purposes of the bills, or second, they were obviously camouflaged attempts to defeat the spirit of the bill while pretending to perfect it. The six amendments submitted last Friday, presumably prepared by the administration, can be so characterized. These proposals were all considered by the committee and were rejected for one of the principal reasons which I have mentioned.

The provisions contained in S. 3651, as reported, are in many ways drastic compromises with bills referred to the com-

mittee for consideration. Personally, I would have preferred to reject many of the compromises which were accepted. The majority of the committee, including myself, worked in a spirit of cooperation and in a conviction that we could acceed to certain objections and still report a good bill. I believe that S. 3651 is a good bill, and I hope that it can be passed without any crippling amendments.

The Federal program contemplated by S. 3651 is conceived to carry out or to be based upon the following principles:

First. To supplement, rather than supplant, existing private facilities.

Second. To operate under a simple and flexible organizational structure.

Third. To operate and be accounted for in complete separation from other Federal small-business programs.

Fourth. To utilize to the maximum possible extent the facilities of State and local development credit corporations.

Fifth. To concentrate upon meeting the equity and long-term credit needs of small-business concerns.

This Federal program attempts to carry out the philosophy that a new financial institution must be established, that this type of institution can be launched with Federal assistance, and that these institutions can be made profitable, an can eventually continue without Federal support.

Mr. President, the principal features of Senate bill 3651 contemplate Federal loans to private small business investment companies and to State and local development companies. The program will be administered by a new Division in the Small Business Administration, which Division will be headed by a Deputy Administrator appointed by the President and confirmed by the Senate. This new Division will have no direct creditor-borrower relationships with small-business concerns, as such.

A revolving fund will be created for the use of the new division, by authorizing borrowings from the Treasury. During the first year of operations, these borrowings may not exceed $50 million. During the second year of operations, these borrowings may be increased to a total of $150 million. Thereafter, the revolving fund may not exceed $250 million. The rate of interest paid to the Treasury may not exceed the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the borrowing. Funds required for administrative expenses will be appropriated in the usual way.

This revolving fund may be used for four purposes, as follows:

First. To assist in the formation of private small business investment companies by purchasing up to $150,000 in the subordinated debentures of any such company, which amount shall be considered to be a part of the capital and surplus of the company for the purpose of compliance with any capital-to-debt ratio to which the company may be subject.

Second. To make loans to small business investment companies in aggregate amounts not to exceed 50 percent of the capital and surplus of any such company.

Third. To make loans to State and local development companies in aggregate amounts not to exceed the amounts which such companies borrow from other sources.

Fourth. To make additional loans to State and local development companies not to exceed $250,000 for any one loan, where the loan is adequately secured and where the proceeds are specifically directed to an identifiable small-business concern.

Small-business investment companies, the new financial institutions to be formed as authorized in the bill, may be chartered by the Small Business Administration, or may be chartered under State law and approved for operation under the act by the Small Business Administration. The bill provides that authority for the Small Business Administration to charter small-business investment companies will terminate on June 30, 1961. It is believed that within the next 3 years all States will have had an opportunity to enable the formation of such companies and that a chartering function in the Small Business Administration will be unnecessary. These companies will be regulated and supervised by the Small Business Administration and will have two primary purposes; that is, first, to provide equity-type capital to small-business concerns through the purchase of the convertible debentures of such concerns, and, second, to provide long-term debt capital through loans with maximum maturities of 30 years.

Another primary function of the Small Business Investment Division of the Small Business Administration will be to encourage the growth and development of State and local development companies. These companies have been performing an increasingly important and useful role in providing credit for small-business concerns. The proceeds of any loans made to these State and local development companies must be used for purposes consistent with the act. The Small Business Administration will have authority to carry out this intention of the law.

I have not attempted to explain the bill in great detail, but I invite the attention of the Senate to Senate Report No. 1652, wherein the bill is thoroughly discussed. In order that the record of this debate may be more complete, however, I ask unanimous consent that a sectional analysis of the bill be inserted at this point in my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTIONAL ANALYSIS

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE AND DEFINITIONS

Section 101. Short title: Cited as Small Business Investment Act of 1958.

Section 102. Statement of policy: States congressional policy to (1) stimulate and supplement flow of private capital to small business, (2) recognize that such funds are not available in adequate supply, (3) insure maximum participation of private financing sources, and (4) deny financial assistance which would substantially increase unemployment in any area of the country.

Section 103. Definitions: (Self-explanatory.)

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF SMALL BUSINESS ADMINISTRATION

Section 201. Establishment of Small Business Investment Division: Creates the Small Business Investment Division within the Small Business Administration. Division to be headed by a Deputy Administration appointed by President and confirmed by Senate.

Section 202. Provision of funds: Creates revolving fund of $250 million for Investment Division of SBA—funds to be borrowed from the Treasury at the current average yields on United States obligations of comparable maturities. Maximum borrowing of $50 million during the first year of operations, and maximum of $150 million during first 2 years of operations.

Section 203. Purpose of revolving fund: Revolving fund may be used—(1) to purchase subordinated debentures of small business investment companies, (2) to make loans to small business investment companies, and (3) to make loans to State and local development companies.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Section 301. Organization of small business investment companies: Small business investment companies may be formed by 10 or more persons subject to the approval of the SBA. SBA chartering authority terminates June 30, 1961. Enumerated are such powers as are necessary to carry on the business for which a company is established.

Section 302. Capital stock and subordinated debentures: A small business investment company must have $300,000 paid-in capital and surplus before it may commence business. The SBA is authorized to advance a maximum of $150,000 to any such company by purchasing subordinated debentures, and such subordinated debentures are to be considered a part of capital and surplus. Shares of stock in such companies may be purchased by member banks of the Federal Reserve System, nonmember banks, insurance companies, financial institutions, corporations, partnerships, and other persons. A member bank or an insured nonmember bank may hold stock in such companies only in an aggregate amount of 1 percent of such bank's capital and surplus. The aggregate amount of stock in such companies which may be held by any stockholder may be limited by the SBA.

Section 303. Borrowing power: Small-business investment companies may borrow money and issue obligations subject to limitations and regulations of the SBA. The SBA is authorized to lend to such companies upon such terms and at such interest rates as determined by the SBA. The SBA may not have loans outstanding under this section at any one time to any one company in an amount exceeding 50 percent of the paid-in capital and surplus of such company.

Section 304. Provision of equity capital for small-busines concerns: Small-business investment companies are authorized to provide equity capital to small-business concerns through the purchase of convertible debenture bonds. Such bonds shall bear interest and contain other such terms as the company may fix with the approval of the SBA. Before any capital is provided to a small-business concern under this section, the investment company may require such concern to (1) refinance any or all of its outstanding debt so the investment company is the only holder of evidence of indebtedness of such concern, and (2) agree not to thereafter incur any debts without the approval of the investment company. When a small-busi-

ness concern obtains capital under this section, it is required to purchase stock in the investment company in an amount ranging from 2 to 5 percent of the funds it obtains, the amount of such stock purchase to be set by the SBA and the SBA can authorize a 3-year deferment of stock purchase.

Section 305. Long-term loans to small business concerns: Small business investment companies are authorized to make long-term loans to small-business concerns. The maximum rate of interest on such loans is to be determined by the SBA, and maximum maturity is set at 30 years with the investment company having the right to extend the maturity of any loan another 10 years if it deems such extension advisable to orderly liquidation of the loan. Such loans may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.

Section 306.—Aggregate limitations: Without the approval of the SBA, no small business investment company can have more than 20 percent of its combined capital and surplus in loans and investments of a single small-business concern at one time.

Section 307.—Exemptions: Securities issued by small business investment companies may be exempt by the SEC from the Securities Act of 1933 and the Trust Indenture Act of 1939, or issued under special regulations, if the SEC finds that complete application of these two acts is not necessary in the public interest and for the protection of investors. Investment companies chartered by SBA are exempt from the equity-debt ratio requirements of the Investment Company Act of 1940.

Section 308.—Tax provisions: Any individual or corporation is allowed an ordinary (rather than capital) loss derived from a sale or exchange of stock in a small business investment company. Also, a small business investment company may treat as an ordinary loss any loss on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 304 above. Further, a dividend received deduction equal to 100 percent (rather than 85 percent) of dividends received by a small business investment company is allowed.

Section 309. Miscellaneous: Contains miscellaneous provisions concerning the operations of small business investment companies and the regulation of them by the SBA.

Section 310. Approving State-chartered companies for operations under this act: State-chartered companies formed expressly for the purpose of operating under this act may be approved for such operations by the SBA. Upon approval such companies shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed for small business investment companies chartered by the SBA.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

Section 401: State chartered investment companies and State development companies may, upon the vote of the majority of stockholders, be converted into a small business investment company with the approval of the SBA. SBA conversion authority terminates June 30, 1961. Nothing in this section shall be construed to supersede any State law.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Section 501: The SBA is authorized to make loans to State and local development companies with the stipulation that such funds are to be used by such companies to assist in carrying out the purposes of this act. Such loans by the SBA are to be in exchange for obligations of the development companies on such terms and at an interest rate set by the SBA. The SBA loans outstanding at any one time to any one development company under this section cannot exceed the total amount borrowed by the company from all other sources. Loans to local development companies may be made only through June 30, 1961.

Section 502: The SBA is also authorized to make secured loans to State and local development companies, up to $250,000 each if such loans are to assist an identifiable small-business concern. Loans to local development companies may be made only through June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Section 601. Repeal of section 13b of the Federal Reserve Act: Section 13b of the Federal Reserve Act (which provides that Federal Reserve banks may make working capital loans to business concerns) is repealed 1 year after enactment of this act. A savings provision protects transactions being carried out.

Section 602. Fund for management counseling: Section 13b funds ($27.5 million) are to be returned by the Federal Reserve banks to the Treasury which shall create a special fund to be used by SBA in making grants to States, State agencies, State development companies, colleges and universities for studies, research, and counseling relating to managing, financing, and operating small-business concerns. Only one grant can be made in any one State in any one year and no grant may exceed $40,000.

TITLE VII—CRIMINAL PENALTIES

Sections 701–705: Makes it a crime for an officer, director, agent, or employee of a small business investment company to (a) make any loans to an examiner of such company, (b) receive a fee, gift or commission for any transaction by the company which is not authorized in this act, (c) embezzle or willfully misapply any funds or securities belonging to such company, and (d) make a false entry or report or to make an unauthorized transaction.

Makes it a crime for an examiner of a small business investment company to accept a loan or gratuity from such a company or from anyone connected with such company. Makes it a crime for anyone to knowingly make any false statement or report or to willfully overvalue any property or securities for the purpose of influencing the action of a small business investment company. Makes it a crime for anyone to cause or procure a small business investment company to charge or receive a fee or gift not specifically authorized by law.

Mr. FULBRIGHT. Mr. President, in conclusion, I call the attention of the Senate to one example of what Senate bill 3651 is intended to do. Last year, the Committee on Banking and Currency heard testimony from a small manufacturer in my State. This witness related the success of his business, and the problems involved in obtaining long-term funds for expansion and growth. At that time he needed $200,000 in long-term funds. I am advised that this successful and growing small independent business has since been bought by a very large corporation with diversified activities. I am told that this former small-business man is now working for the large corporation which bought his business. I believe that if funds had been available through a small-business investment company or through a State development corporation, this small business could have maintained its independence.

Transactions of this kind occur somewhere in this country practically every day in the year. Mergers, consolidations, and other methods of business concentration are a real threat to the free economy which we wish so desperately to preserve. An economic dictatorship through increasing concentration of business activity is no less an evil than political dictatorship, and both must be resisted with equal vigor.

Senate bill 3651 offers a way to help small-business concerns to remain independent and to maintain the free economy so essential to our democratic Nation.

Mr. President, I wish to say another word regarding the pending amendment of the Senator from Indiana, which deals with the administration of this program.

I believe the agency should be an independent one, in order to have maximum efficiency. There was great objection to that point of view because of the multiplication of independent Federal agencies, and I anticipated considerable resistance to that proposal. In reaching a compromise, we struck upon this device of creating a semiautonomous division within the Small Business Administration.

I regret very much that the Senator from Indiana desires to press for adoption of his amendment, because I believe our proposal would have given the organization an opportunity to develop in an independent way, separate from the ordinary activities of the Small Business Administration.

However, that amendment is now pending. I regret that its adoption is being urged. I hoped I might persuade the Senator from Indiana not to press for its adoption; but apparently I have not done so.

However, even if the amendment is adopted, I still think there is great merit to the bill. Although it is experimental to a large extent, we have had sufficient experience in the field of agricultural financing, which is quite similar to this, to insure success, I believe, given a reasonably wise administration. So, despite the amendment, I still urge the Senate to pass the bill.

Mr. President, before I conclude, I wish to pay tribute to the Senator from Alabama [Mr. SPARKMAN]. He and the Senator from Wyoming [Mr. O'MAHONEY] many years ago were really the pioneers in the development of this idea; and the Senate owes to both of them a great debt of gratitude for the work they have done in regard to this legislative proposal.

Mr. SPARKMAN. Mr. President, let me say that I am very grateful to the distinguished chairman of the committee for what he has said about me in connection with his measure.

I rise to speak in suport of Senate bill 3651, the Small Business Investment Act of 1958. Let me say, first of all, that in my opinion this is one of the most important pieces of proposed legislation to come before the Senate this year. It was an honor for me to join our majority leader [Mr. JOHNSON] in sponsor-

ing this bill. The senior Senator from Texas, in introducing this bill, and in placing it high on the list of vital proposed legislation, has given further evidence of his keen insight as to the needs of the country.

I want also to take this oportunity to commend the distinguished chairman of the full Banking and Currency Committee, the junior Senator from Arkansas [Mr. FULBRIGHT], who has shown a great deal of interest in this measure from the beginning, and to whose effective leadership much credit is due for now having before the Senate a bill as good as this one.

I also wish to pay my compliments to the distinguished junior Senator from Pennsylvania [Mr. CLARK], who, as chairman of the Small Business Subcommittee of the Banking and Currency Committee which considered the bill, did a most thorough and most conscientious job. As a member of the subcommittee, I know of the hard and careful work that went into this measure; and the Senator from Pennsylvania, as subcommittee chairman, certainly deserves our praise and appreciation for his arduous labor.

As chairman of the Senate Small Business Committee, this bill is of special interest to me. Through the past several years, I have been in contact with small-business men from all parts of the country. Also as a result of my service on the Small Business Committee, I have studied carefully the writings on small-business financing problems. I am convinced that this is one of the crucial areas which must be considered if we are to retain our competitive free-enterprise economy.

It is my considered opinion that, along with adequate antitrust legislation and enforcement and more equitable tax laws, the most pressing need of small business is more adequate means of financing.

I may say that this is not a new problem. It is one that has been with us for a good many years. Due to a number of reasons, however, such as the increased costs of doing business and the high tax rates which came about as a result of World War II and the cold war that has followed, the financing needs of small business have become more acute.

In the past several years a number of studies on small-business financing have been made. I should like briefly to call attention to some of the major ones.

The first official study of which I am aware was made in 1935 by the Department of Commerce, which surveyed 6,158 manufacturers, in all parts of the country, which employed between 21 and 250 employees. By far the most striking conclusion of the 1935 study was that 47.2 percent of all the manufacturers replied that they could not obtain long-term funds from any source whatever. By digging into individual financial statements, competent Commerce Department personnel estimated that almost two-thirds of these firms could be considered sound credit risks. Nonetheless, they were unable to find any long-term credit or capital at all.

Four years later, the Business Advisory Council of the Department of Commerce made a similar study and came to the same conclusion, with their findings almost identical with the earlier survey.

In 1943, Roy Foulke, of Dun & Bradstreet, told the Select Committee on Small Business of the Senate that "under the existing setup of our economic structure we find no organized source or sources to provide long-term money or permanent capital to intermediate-sized firms."

One of the first projects of the Committee for Economic Development in its series of studies of postwar economic problems dealt with small business. At the end of an intensive study, the business leaders of the United States who constituted the membership of the CED concluded that:

> One of the fundamental needs of small- and medium-size business is more adequate financing. More long-term credit is needed relative to short term. * * * More ownership funds are needed relative to borrowed funds. * * * Present banking facilities should be supplemented to open up, for the small enterprise, channels for capital loans and equity capital. The CED suggests the formation of new capital banks for this purpose.

In making its recommendation for the establishment of capital banks, the CED acknowledged that such an idea had been proposed several years earlier, in 1945, by the Investment Bankers Association.

The Congress first began to give serious attention to the problems of adequate long-term small-business financing in 1949, when it authorized the Joint Committee on the Economic Report to make a study of the volume and stability of private investment and the role of the Federal Government in promoting the investment of capital.

This study was made by the Subcommittee on Investment, under the chairmanship of Senator O'MAHONEY. Among the conclusions reached by this subcommittee was that small-business concerns, as a group, cannot obtain adequate financing on reasonable terms. The subcommittee in its report dated March 23, 1950, stated:

> From the evidence submitted to the subcommittee, it seems clear that one of the important questions facing the American people today is to determine what steps can and should be taken to preserve an open door for investment in little and local business in terms of ownership as well as in terms of debt. That problem is paramount to the development of a steadily expanding economy.

Based upon this subcommittee's study and recommendations, Senator O'Mahoney, with Senators Sparkman, Lucas, and Maybank, introduced S. 3625, entitled the "Small Business Act of 1950." This bill provided for the establishment of private national investment companies which would provide long-term debt and equity capital to small-business concerns, with the original capital for such investment companies to be supplied by the Federal Reserve banks.

The Federal Reserve Board of Governors and the administration joined in supporting this legislation.

I should like to pay due respect to the pioneer work in this field done by the Senator from Wyoming [Mr. O'MAHONEY]. Throughout the years the Senator has been one of the most diligent and able students of business financing, and he deserves recognition for being among the first to attempt to find a concrete solution to the financing needs of small- and medium-sized business.

In there is any single man who can claim credit as being the originator of the legislation we are now considering, I would say that honor goes to the distinguished and learned Senator from Wyoming.

In the same year, 1950, when the first small-business investment company bill was introduced, the Small Business Committee was established in the Senate. As chairman of the committee, I felt that additional attention should be given to this question of financing, and I requested the Federal Reserve Board to make a study as to the costs and availability of credit and capital to small business. In this report which the Board submitted to our committee in 1952, it stated:

> On balance, it is probably fair to say that the availability of long-term debt and equity capital to small business has tended to diminish somewhat over the past 2 or 3 decades. * * *
>
> A small business, if it is to develop successfully, needs to be able to supplement its own resources at times with credit and capital supplied by other investors; that is, other business concerns, banks, and other financing institutions, and individuals.

More recently, the Department of Commerce has made a further study of small-business financing. During 1955, the Department's field offices queried some 15,000 firms, half of them less than 5 years old, the other half older. The Commerce Department concluded that only one-third of the desired equity funds were actually obtained, with both younger and older firms receiving less than half the total they sought.

During all this time the Senate Small Business Committee continued regularly to urge legislation to set up an adequate capital credit system for small business. In each Congress I introduced legislation, with several Senators joining in sponsorship.

During June 1957, the Senate Banking and Currency Committee held 9 days of public hearings on credit needs of small business. Once again there was a unanimity of opinion that a serious credit gap did exist and that small- and medium-sized businesses particularly were unable to meet their urgent needs for long-term credit or equity capital. Even the American Bankers Association spokesman supported the principle behind the establishment of capital banks, and acknowledged the serious lack of private sources in this area.

As a result of the hearings last year of the Banking and Currency Committee, at my insistence in which I had the full backing of the chairman of the Banking and Currency Committee [Mr. FULBRIGHT], the Federal Reserve Board took on the assignment of making a full-scale study of small business fi-

nancing. Parts I and II of this three-part study have now been completed, and they confirm the opinion that a financing gap does exist. As Chairman William McChesney Martin told the Banking and Currency Committee this year:

> These general findings from the study confirm the impression that we conveyed to this committee in our testimony last June, namely, that there is a gap in the existing structure of financing institutions which lies in the longer term debt and equity capital areas.

And Chairman Martin went on to tell the committee "that there is room for a Government program to foster the flow of investment funds to small business."

I was impressed during the 10 days of hearings this spring by the virtual unanimity of opinion on the part of experts in the field of finance as to the financial gap which exists and the need for some type of program being instituted to fill this gap.

As I have already stated, Mr. President, I have for a good many years studied this problem and urged that we take action to make it possible for small business to obtain the necessary long-term debt and equity capital which it so desperately needs. I joined in sponsoring the original O'Mahoney bill to set up small investment companies back in 1950. And I have introduced similar bills in the 82d, 83d, 84th, and the present 85th Congresses. While the bill before the Senate today, S. 3651, is somewhat different in its organizational structure from the bills I have previously introduced, it has the same purpose and objective, namely, to establish privately owned and operated investment companies which would provide long-term loans and equity capital to small-business concerns. This is a good bill, which has been most carefully considered. As one who has urged passage of such legislation for a good many years, I hope and pray that S. 3651 will be passed and signed into law. The time is long overdue for such legislation, and the needs of small business have never been more pressing.

I wish to conclude by repeating the words of the Eighth Annual Report of the Small Business Committee which was submitted to the Senate on February 10 of this year:

> In summation, your committee reiterates its concern as to the inability of many well-managed small-business firms to maintain the necessary financing, without which they cannot develop. This is a matter which should be of concern not only to small businesses, but to the Nation as a whole, for, if small business cannot obtain necessary funds, our free-enterprise system as we know it cannot survive. Prompt congressional action is imperative.

Mr. President, that is only one of several such urgings which the Senate Committee on Small Business has made. The recommendations in every instance were made by a unanimous vote of the full committee, Members of both sides of the aisle joining in making the recommendations.

Mr. President, I wish to pay my compliments to the membership of the Select Comittee on Small Business for standing behind the program ever since 1950, when the present committee was established, and standing behind it unanimously. I am sure that today the unanimous sentiment of the committee is in favor of enactment of the pending legislation, even though it does not measure up to our full expectations.

Mr. President, as I stated a few minutes ago, the distinguished Senator from Wyoming [Mr. O'MAHONEY] first introduced the bill. It grew out of both the CED report and the results of his own studies as chairman of the subcommittee of the Joint Committee on the Economic Report. The Senator remained an active sponsor of that bill, of which I had the honor of being a co-sponsor, until he left the Senate for a short while. While the Senator from Wyoming was absent from the Senate in the next session of Congress, I simply picked up the bill the Senator had pioneered and introduced it. I have continued to introduce the bill, with changes, as time has gone on, in each Congress since that time.

The Select Committee on Small Business has continued to press for such legislation. At least a couple of times hearings were held in the Committee on Banking and Currency. As I stated, we had rather full hearings last year. We reached the point where we might have reported a bill, except that a decision was made that it would be a matter of wisdom and good judgment to ask the Federal Reserve Board to make an intensive study and report to us by March of this year. The Federal Reserve Board agreed to do so, and did a very good job. In the early part of this year the Federal Reserve Board submitted the first 2 parts of a 3-part study. Those two parts were sufficient to cause them to make a very definite recommendation to our committee that such a plan be enacted into law.

The bill I originally sponsored, which I continued to sponsor up through the present Congress, provided for the operation to be within the framework of, under the jurisdiction of, and within the supervision of the Federal Reserve Board. I think that is the place it should be. I think that is the place in which we could expect the finest results. However, the Federal Reserve Board felt this was not the kind of business the organization was set up to handle, and stated very strongly an objection to having the program placed under its jurisdiction. I think undoubtedly the Federal Reserve Board would have taken the program up and would have administered it had we insisted on it being under their jurisdiction, but we felt the Board was earnest and sincere in its opposition. We therefore started to work out some kind of compromise.

The staff of the Committee on Banking and Currency, 1 staff member from the Select Committee on Small Business who was detailed for 2 or 3 months to the Committee on Banking and Currency—Mr. Jack Flynn—staff members of the Federal Reserve Board, staff members of the Small Business Administration, and staff members of other interested and concerned executive departments worked at different times trying to develop some kind of proper program to be enacted into law. We finally prepared a compromise bill, which was introduced.

In the meantime, the distinguished majority leader, the Senator from Texas [Mr. JOHNSON], introduced a bill which provided a little different plan but had the same general objective. We had all the bills under consideration and all the recommendations which had been made to us in trying to work out a compromise bill.

Finally, when we worked the matter out, the distinguished majority leader introduced a bill, which several of us joined in sponsoring. In that bill we took the program away from the jurisdiction of the Federal Reserve Board and provided for an independent agency, the Small Business Investment Administration. After that was done, the administration came to us and objected rather seriously to having a separate agency. The administration asked that the program be made a part of the work of the Small Business Administration.

As has been explained by the distinguished chairman of the committee, the Senator from Arkansas [Mr. FULBRIGHT], there was strong objection to having the program a part of the work of the Small Business Administration. As I pointed out, the Small Business Administration was created to handle a different type of lending program. The Small Business Administration was established for the purpose of handling relatively small loans for operational purposes and handling disaster loans in distress cases. This program has a very different purpose. It calls for what are supposed to be long-term capital loans.

I feel very strongly, Mr. President, that there should be provided a separate agency. This program should not be a part of the Small Business Administration. I say that without any desire to reflect upon the Small Business Administration. As a matter of fact, I think the Small Business Administration, by and large, has done a good job in the handling of the types of loans it is supposed to handle.

I have felt this program should be handled by a separate agency, because it involves a separate type of financing.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I am glad to yield to the distinguished Senator from Illinois.

Mr. DOUGLAS. Do I correctly understand the Senator from Alabama acceded to the request of the administration and changed the bill so that this program would be under the Small Business Administration?

Mr. SPARKMAN. It will be under the supervision of the Small Business Administration. I will not say I did that. The committee did it, as the Senator remembers.

Mr. DOUGLAS. It was made a separate division?

Mr. SPARKMAN. It was made a separate division of the Small Business Administration. We tried to provide a safeguard, as the Senator knows, by requir-

ing the Deputy Director in charge to be appointed by the President subject to confirmation by the Senate.

Mr. DOUGLAS. This was done to gain the support of the administration, was it not?

Mr. SPARKMAN. Let me state my understanding. My understanding is that it was done to comply with the wishes of the administration, and that it represented a meeting of the minds on both sides.

Mr. DOUGLAS. Now that it has been done, is the administration supporting this measure?

Mr. SPARKMAN. The administration desires some amendments. The pending amendment—by the way, I wish now to discuss that amendment—is the amendment offered by the distinguished Senator from Indiana [Mr. CAPEHART], which would eliminate the provision requiring the Deputy Administrator to be appointed by the President and confirmed by the Senate, and would allow the Administrator of the Small Business Administration to appoint another Deputy Administrator, who would have the responsibility of handling this part of the program.

Mr. DOUGLAS. This general pattern has occurred so often that I think perhaps the parliamentary history should be clarified a little further.

Am I to understand that it was the impression of the Senator from Alabama that the proposal which he is making was satisfactory to the administration?

Mr. SPARKMAN. That was my impression at the time the bill came up in the Senate—and, as a matter of fact, at the time the bill was introduced.

Mr. DOUGLAS. Were assurances given to the Senator?

Mr. SPARKMAN. I cannot say that assurances were given to me. I am not sure the Senator was in the Chamber at the time, but, as I explained, a great deal of work went into this bill which I introduced, the bill introduced by the distinguished majority leader, Mr. JOHNSON of Texas, and the recommendations made to us in the course of the hearings, as well as other bills which were introduced. As chairman of the Small Business Committee, I detailed Mr. Jack Flynn, a staff member of our committee, to work with the Banking and Currency Committee for some 3 months.

Mr. DOUGLAS. But it was the Senator's impression that his proposal was satisfactory to the administration.

Mr. SPARKMAN. Yes.

Mr. DOUGLAS. Now we find that is not so.

Mr. SPARKMAN. That is correct; and the pending amendment relates to that subject.

Mr. DOUGLAS. We have found the same pattern present over and over again. The administration leads us to believe that it supports a given measure, and when it comes to the floor the administration welshes on the assurances it has given, and tries to gut the measure.

We have just had that experience in connection with the Mutual Security bill. Last year we had the same experience in connection with title III of the Civil Rights bill. We have had it again and again, and I, for one, am becoming tired of it.

Mr. SPARKMAN. Let me say to the Senator from Illinois that I learned, long since, that it was difficult to determine at any particular time just where the administration stood. I could go back to the beginning, in 1953. I could go back to the Formosa resolution, which the Senator recalls. I could go back to many measures which have been before us in the course of the years.

Mr. DOUGLAS. How is it going to be possible for those of us on this side of the aisle to negotiate in the future with an administration which allows us to believe one thing, and, when it comes to the test, goes in the other direction?

Mr. SPARKMAN. I suppose each Senator will simply have to stand for the things in which he believes, and will have to defend the things which he himself thinks are right, and quit asking where the administration stands.

Let me say to the Senator from Illinois that I, for one, felt very keenly over the sorry spectacle the other night in the Senate during the consideration of the Mutual Security bill. I am a member of the Foreign Relations Committee. Certainly, I have no truck with the Communist-dominated countries; and yet I was willing, in the committee, to go along with the President of the United States and the administration and trust the President to handle the program correctly, in behalf of our own national security. The majority of the committee felt the same way. I do not recall any particular opposition in the committee. But when the bill reached the floor of the Senate, the rug was pulled from under us. There is no question about it.

Mr. DOUGLAS. The form of the resolution which the Senator had supported in committee was put into final shape in the State Department, was it not?

Mr. SPARKMAN. Last Friday Secretary Dulles appeared before the Senate Foreign Relations Committee. I read to the Senate the letter signed by the Assistant Secretary of State for Legislative Matters, in which he submitted the exact language to us. The exact language was submitted to us by the State Department.

Mr. DOUGLAS. I make the prophecy that this fall, on the hustings, the Republican National Committee will attack Members who voted for the committee proposal and against the Knowland amendment. Those men will be attacked by the Republican National Committee for being "soft" on communism, when they simply followed the line which had been laid down by the administration.

Mr. SPARKMAN. They were reposing faith and confidence in the President of the United States to carry out that kind of program. We had a good formula written into the law.

Mr. DOUGLAS. That is correct.

Mr. SPARKMAN. If it were carried out, it would be all right. We were acting at the request of the administration. The Senator is exactly right.

Mr. DOUGLAS. Have we not something of the same sort in this instance?

Mr. SPARKMAN. I certainly felt let down when this amendment was proposed. The distinguished Senator from Illinois may recall that this amendment was proposed in the committee, and I stated my opposition to it then. I stated that we had, in effect, bargained in good faith and had worked out a compromise bill on the basis of that bargaining. I certainly was opposed to the suggested change.

Mr. DOUGLAS. Will it be sensible in the future to make any agreement with people who treat their pledged word in this fashion?

Mr. SPARKMAN. In the future I shall govern my vote on such questions according to my own belief as to what is right.

Speaking to the pending amendment, which would permit the new Deputy Administrator to be appointed by the Administrator rather than appointed by the President and confirmed by the Senate, I wish to state briefly four arguments against it.

First. The new function is completely different from the existing SBA programs—long-term funds to promising small businesses as distinguished from short-term funds and welfare assistance to small businesses in distress—investment banking versus commercial banking.

Second. S. 3651, as reported, represents a significant compromise with opponents of the plan. Proponents would prefer that the new program be administered by the Federal Reserve System or by an independent agency. The first attempt to compromise was contained in the original Johnson bill (S. 3651) which established a new agency, the SBIA, to function in close cooperation with the SBA under a Loan Policy Board. The second attempt to compromise resulted in the provisions of S. 3651 as reported, which places the new function within the SBA but which insures some measure of independence for the Deputy Administrator, by requiring his appointment by the President and confirmation by the Senate.

Third. There are many precedents for the appointment of subordinate officials by the President.

I want my good friend, the distinguished Senator from Indiana [Mr. CAPEHART] to listen to these examples, because they are examples which he himself has supported.

The heads of the constituent agencies of the Housing and Home Finance Agency, Deputy Administrator of the Federal Civil Defense Agency, Deputy Administrator of the St. Lawrence Seaway Development Corporation, Deputy Director of USIA, Under Secretaries, Assistant Secretaries, Deputy Attorney General, Assistant Attorneys General, Deputy Postmaster General, Assistant Postmasters General, and others offer example after example of this practice.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. SPARKMAN. I am glad to yield.

Mr. CAPEHART. The Senator is 100 percent right in what he has said. However, the problem is that there are al-

ready two Deputy Administrators in SBA, neither of which under the law, is appointed by the President and confirmed by the Senate. Therefore, if we provide in the pending bill that the Deputy Administrator in charge of the program must be appointed by the President and confirmed by the Senate, it will result in having two Deputy Administrators appointed by the Administrator, and one by the President. Someday perhaps all three ought to be appointed by the President, with Senate confirmation provided. I rather believe that should be the practice. However, until that happens, I believe we would be better off to accept the amendment temporarily. I feel the Senator will agree with me under the circumstances.

Mr. SPARKMAN. I appreciate the presentation of the Senator from Indiana, and I recognize the fact that there is an argument in it. Yet we have shown our desire many times before to have these functions administered in a semi-independent manner by requiring this kind of arrangement, namely, appointment by the President and confirmation by the Senate. The SBA comes to Congress for legislative consideration ever so often. I certainly agree with the Senator, as I said in the beginning, that, while I am opposed to the amendment, I am privy to the little agreement which has been worked out—it is only an informal agreement—whereby we have agreed to accept the amendment if the other amendments of the Senator from Indiana would be withdrawn. I am certainly going along with that. But I did wish to show what the basic objections to the arrangement are. In the future, as SBA comes up for consideration before Congress, I certainly think that we ought to keep this in mind. In the event the new function is not administered in the way in which our committee intended it to be administered, and in the way in which I believe Congress wants it to be administered, we should do something about it.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CAPEHART. I certainly agree with that; that is certainly a fair statement.

Mr. SPARKMAN. I appreciate the Senator's statement very much.

The fourth objection is that the majority of the committee will not concede that this is just one more activity for the Small Business Administration. S. 3651 hopes to create new private financial institutions and to stimulate the activity of State and local development companies. The new function should have separate and distinct status within the SBA, and the amendment would weaken this feature of S. 3651.

There is one other thing I wish to mention, and I believe the Senator from Indiana will agree with me about it. I wish it to be noted in the RECORD that the acceptance of the amendment is to take care of an organizational situation, and in no way affects the wishes of the committee considering the proposed legislation that this function of SBA shall be separate and distinct and semi-independent, as I have said. I feel that the Senator from Indiana will agree with me.

Mr. CAPEHART. Will the Senator repeat that statement?

Mr. SPARKMAN. What I said was that the RECORD should show that the acceptance of the amendment is to take care of an organizational situation, and does not in any way affect the intention of the committee that this should be a new, separate, and distinct function of the SBA of a semi-independent nature.

Mr. CAPEHART. The Senator is correct on that point.

Mr. SPARKMAN. I appreciate the Senator's statement. There is just one other thing I wish to discuss. I do not recall that the Senators who have spoken before me have had much to say about this point. It refers to State and local development companies. Of course, anyone listening to the discussion and anyone reading the discussion or reading the act would realize that one of the principal objectives of the bill is to have organizations on the State or local level. I may say that during the past several years that objective has been vividly called to our attention. For instance, New England has had an excellent small-business man's organization for a great number of years. Several States in New England started 3 or 4 or 5 years ago a kind of State investment organization setup for the purpose of encouraging and helping small business.

At one of our hearings, held a few years ago, we learned of 15 States in the country which had such setups. One of the best, which was called to our attention on two different occasions, is the one in the State of Arkansas. There are others throughout the country, reference to which can be found in the hearings on the pending bill. There has been sufficient experience to demonstrate to us that the State and regional organizations can be used most effectively in this type of work. By referring to page 27 of the hearings on the pending bill, I find that there are approximately 10 different groups which have not only organized, but have actually sold stock to private investors, and which are carrying on a good, strong program in their respective States. It is to be hoped that such companies may be established throughout the country on a State or regional level.

In this way it can be made a grassroots operation, very much on the same basis as the other program, on which the pending bill is patterned; namely, the farm credit system. I believe it can render a great deal of good to small businesses throughout the country. I am therefore glad to support the bill and to go along, even, with the agreement relating to the amendment, after stating my objections to it, and also with the statement as to what the real purposes of the committee are with reference to the nature of the operation of the program.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. ROBERTSON. Mr. President, I am very much interested—I hope as much as is the distinguished Senator from Alabama—in the future of small business. Small business in the business field is comparable to the farmer. It is the independent operator who constitutes the backbone of our private enterprise system and of our democracy. Naturally I wish to see small business enterprises prosper and survive. It frequently happens that men in partnership in small companies start out without adequate capital or without adequate training and know-how in what they are undertaking to do, and soon fold up.

I was glad to support the proposal to give them financial aid through the Small Business Administration. In committee, during the consideration of the pending bill, I thought we should continue the precedent set when we passed the Small Business Administration Act, and authorized an appropriation of $250 million, instead of opening a pipeline directly into the Treasury and creating a perpetual revolving fund for what was admittedly an experiment.

It is proposed that we furnish equity capital to small business. To do that, the Government will create new corporations, will charter corporations. Then the Government will contribute one-half of the capital of those investment corporations and will take in return what are called subordinate debentures. The word "debenture" seems to be a cute litle term which investors cooked up, to make the obligation sound better than a secured note. But that is all it does. They tried to make it very formal by calling it a bond, but it is not secured. A subordinate debenture is worse than that. A subordinate debenture is about at the bottom of the list of any corporation securities.

Anyway, that was the way the Government planned to finance $250 million of aid to small business. I thought it preferable to have that provided for by an authorization. Then each year the Committees on Appropriations could have a report showing how the program was working. It was said that the program was experimental. If it were not working properly, it could be discontinued.

So in the committee I made the point of order against section 202 (b) of the bill. The point of order was overruled. Then I offered an amendment to substitute the authorization for the pipeline in section 202 (b), and the amendment was rejected.

So I gave notice, as those who have read the record will see, that when the bill was before the Senate, I would make a point of order against section 202 (b), on the ground that it violates Senate rule XXV.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. LAUSCHE. Am I to understand that it is the opinion of the Senator from Virginia that the Committee on Banking and Currency in this year, by indirection, has in effect appropriated approximately $9 billion without having the particular appropriations submitted

to the Committee on Appropriations for consideration?

Mr. ROBERTSON. The Senator is correct. We have already reported $5 billion. The amount provided in this bill is $2,500,000,000. The so-called big housing bill, which is before the committee, provides a total of $4,400,000,000. So those figures add up to more than $9 billion, assuming that the big bill is reported in its intended form.

Amendments are pending to reduce the amount for public housing and to cut something from the funds for urban redevelopment. But that amount has been proposed and is pending.

If all the amounts are approved, the total will be more than $9 billion.

Mr. LAUSCHE. The bill recommended by the Committee on Banking and Currency provided $2 billion for the Export-Import Bank. Was that merely an authorization, or was it an appropriation, in effect?

Mr. ROBERTSON. That was the continuation of a precedent which had previously been set. Not knowing how much the bank would need for its operation in a given time, we authorized it to obtain its needs from the Treasury. But the bank is supposed to get good bonds and good security, and the amount will come back into the assets of the Treasury at some future time.

But the bill provides a revolving fund of $250 million, with no provision for that amount ever to be returned to the Treasury.

Mr. LAUSCHE. About $1,800,000,000 is provided for emergency housing. Was the Committee on Finance bypassed on that subject?

Mr. ROBERTSON. That is correct.

Mr. LAUSCHE. A billion dollars is provided for community facilities.

Mr. ROBERTSON. That is correct.

Mr. LAUSCHE. Was the Committee on Finance bypassed on that amount?

Mr. ROBERTSON. That is correct.

Mr. LAUSCHE. What about the $300 million for area redevelopment?

Mr. ROBERTSON. That is the correct amount.

Mr. LAUSCHE. Is an effort being made to bypass the Committee on Finance in that instance?

Mr. ROBERTSON. That is correct, again.

Mr. LAUSCHE. Is $4 billion proposed for expanded housing, which is contemplated to be authorized?

Mr. ROBERTSON. It is $4,400,000,000.

Mr. LAUSCHE. That makes a total of about $9 billion.

Mr. ROBERTSON. It is closer to $10 billion.

Mr. LAUSCHE. Why is the Committee on Finance being bypassed?

Mr. CAPEHART. It is the Committee on Appropriations.

Mr. LAUSCHE. Yes; the Committee on Appropriations.

Mr. ROBERTSON. Various reasons are given. One is that it has been done before. Another reason is that we who are handling the program know enough about it not to want to be bothered with the Committee on Appropriations. We will handle the funds ourselves.

Mr. LAUSCHE. Am I correct in understanding that the purpose in having the Committee on Appropriations is to make certain that there will be one centralized agency of the Senate which will make overall observations of what is going on and will, on a total basis, know what the expenditures for the year are?

Mr. ROBERTSON. That is indubitably correct. The Senator from Ohio will recall that there was never any national debt, to speak of, until the Nation became involved in a most unfortunate fratricidal war. Then the debt pyramided all of a sudden. Prior to that time each committee handled its own appropriations. But when the national debt became so large, in 1865, Congress said that some agency was needed that was not committed to a proposition, as soon as it was started, to take a second look. Some agency was needed which would consider the overall picture and help the Government to manage the national debt. So the Appropriations Committees were created in the House and the Senate, and the jurisdiction of the other committees to handle their own appropriation bills was taken from them.

Mr. LAUSCHE. What would the situation be if each of the committees of the Senate, in their authorization bills, proceeded to circumvent the authority of the Committee on Appropriations and made moneys available for expenditures in accordance with their wishes?

Mr. ROBERTSON. We could only hazard a guess. Ten percent of the present debt, or $28 billion in money which has been financed by committees which were not authorized to report appropriation bills.

Since the first departure was made, in 1932, creating the RFC, appropriations in excess of $143 billion have been made from the Treasury—although the Constitution provides that no money shall be taken from the Treasury except by an appropriation—by pipelines to the Treasury, bypassing the Committees on Appropriations. If that practice should be continued indefinitely, the national debt, which now is $280 billion, may eventually go to $400 billion. If every committee is to say, "What we are doing is the most important thing; we will finance this and get a majority of the House and Senate to approve it"—of course, that would have to be done—then we would be removing the restraint which is imposed upon Congress.

Ordinarily, there is one vote to authorize an expenditure. Then we stop, look, and listen. We then have another vote to appropriate, and the appropriation is for 1 year only. Then we get a report, which is evaluated, to see whether we should have acted differently in the first place, or whether we should go ahead.

Then we take another look at the national debt, to see how much more the country can afford.

That is the reason why the junior Senator from Virginia thought the time had come to bring this issue before the Senate. It has never been ruled on in the Senate.

Mr. LAUSCHE. Am I grossly wrong if I state that some persons might interpret this action as an attitude residing in the members of the Committee on Banking and Currency that they do not have faith in the Committee on Appropriations to act properly in the overall picture?

Mr. ROBERTSON. Mr. President, I happen to be a member of both the Banking and Currency Committee—and I have the highest regard for its distinguished chairman—and the Appropriations Committee; and I believe the time has come for the jurisdiction of the Appropriations Committee to be sustained.

Mr. LAUSCHE. Mr. President, the Senator from Virginia has not answered my question, and probably he prefers not to do so. Therefore, I shall not press him for an answer.

Mr. ROBERTSON. I thank the Senator from Ohio.

Mr. CASE of South Dakota. Mr. President, will the Senator from Virginia yield to me?

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Does the Senator from Virginia yield to the Senator from South Dakota?

Mr. ROBERTSON. I yield.

Mr. CASE of South Dakota. I wish to express my personal appreciation to the distinguished Senator from Virginia for raising the point of order. It is one which has concerned me over many years.

I first raised the point of order in the House of Representatives, in connection with the Housing Act of June 28, 1949. I raised it again in the Senate, more recently in connection with the Community Facilities Act, in special reference to the so-called revolving fund which would be established under the provisions of that measure. However, I did not ask for a ruling on the point of order in connection with the Community Facilities Act, because the matter came up rather suddenly, and I felt that we had an inadequate amount of material to make clear the issues involved.

The distinguished Senator from Virginia, however, has gone into the matter at great length; and I understand he has some figures which he will submit to the Senate on this point.

Following his remarks, I hope also to make some observations on it, and to submit some additional material for the consideration of the Parliamentarian.

There is one point, in particular, which I should like to mention at this time. I noted that the distinguished Senator from Ohio [Mr. LAUSCHE] raised the question of the purpose of having the Appropriations Committee serve as a central agency for the consideration of all appropriations. That clearly was the intent of the Congress, I believe, when the Budget and Accounting Act was passed and when, subsequently, rules were adopted for both bodies.

The distinguished Representative from the State of Missouri, Representative CANNON, who presently is chairman of the House of Representatives Appropriation Committee, was chairman of the committee during the many years when I served on that committee in the House of Representatives. He had a favorite phrase, which I think is quite apropos the trend to which the Senator from Ohio has referred; Representative CANNON used to say

that the Appropriations Committee was the saucer in which the hot cup of legislative tea was poured to cool—in other words, that frequently, under the stress of some important circumstance and under the general desire to do something about a particular matter, a legislative act was passed, but the legislative committees very rarely have the information with respect to the status of the public Treasury the Appropriations Committee has or the Finance Committee or the Ways and Means Committee might have.

So Congress in its wisdom over a period of years adopted the device the Senator from Virginia has mentioned, namely, that of having the Appropriations Committee consider these legislative acts. In addition to the original consideration of such a measure, in order to determine the relationship between the particular demand on the Treasury under consideration and other demands on it, when the proposed legislation is such that it necessitates consideration by the Appropriations Committee, there is an annual review of the progress of the program, the demands upon it, the results that are obtained from it, and the way the program is being administered; and thus there is retained in Congress the control of the purse which the Founding Fathers intended to have rest with the Congress.

In the committee amendment there is one paragraph, under section 202, on page 40, which I believe illustrates the looseness of this manner of obtaining money from the Treasury. I have reference to the subparagraph of section 202 which is marked "(b)," which appears beginning in line 15, on page 40, and reads as follows:

(b) Funds borrowed under this section and any proceeds therefrom shall constitute a revolving fund which may be used by the Administration in the exercise of its functions under this act.

Mr. President, that sentence is worthy of rereading:

(b) Funds borrowed under this section and any proceeds therefrom shall constitute a revolving fund which may be used by the Administration in the exercise of its functions under this act.

Mr. President, under that language, the money would be taken from the Treasury of the United States when the Secretary of the Treasury purchased any notes or obligations of the Small Business Administration, and would go into a revolving fund; and from that day forward the money could be used, and any repayments to it could be used, by the Small Business Administration, in the exercise of its functions under the law.

Nothing in the paragraph I have read would suggest that the Appropriations Committee or the revenue committees of the Congress would ever again have a single word to say about the dollars invested in that way. They would be gone; and the Small Business Administration could proceed to administer them under the terms of the law or under the terms of subsequent amendments thereto. But the annual review of the disbursements by an agency created by the Federal Government would be lost.

It seems to me, in view of these facts, that the able Senator from Virginia [Mr. ROBERTSON] is well warranted in bringing this matter to the attention of the Senate.

I apologize for speaking at such length at this point. Following the remarks of the Senator from Virginia, I shall endeavor to obtain recognition, in order to make further observations.

Mr. ROBERTSON. Mr. President, I thank the Senator from South Dakota for his remarks. I am sorry that subsection (b) of section 202 creates a revolving fund. Subsection (a) of section 202 authorizes the sale of the bonds to the Secretary of the Treasury. Once the administration obtains the money, there is no plan, as I have previously stated, to have the money ever returned to the Treasury or to have the Appropriations Committee take an annual look at what is being done, as is done in connection with other appropriations which pass through the regular channels.

Mr. President, during the years that I have been a member of the Congress, there have been in both Houses many debates and discussions concerning the question of legislation contained in an appropriation bill. But I cannot recall a Senate discussion of the question of an appropriation in a legislative bill. Today, I shall discuss that question, with particular reference to the pending Small Business Investment Act.

The Constitution of the United States provides, in article I, section 9, that: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." This constitutional mandate has been implemented in both Houses of the Congress by the adoption of rules establishing the Standing Committees on Appropriations. Rule XXV of the Standing Rules of the Senate sets forth explicitly the jurisdiction of the Appropriations Committee. Under the rule, all proposed legislation dealing with the "appropriation of the revenue for the support of the Government must be referred to that Committee. Identical language is contained in rule XI of the Rules of the House of Representatives, which states the jurisdiction of the House Appropriations Committee.

As all of us know, proposed legislation creating a new governmental activity is considered by some other committee than the Committee on Appropriations. In order to provide for the financing of such new activities, the basic legislation generally provides authority to obtain an appropriation, by the use of language such as "There is hereby authorized to be appropriated for" and so forth.

In January 1932, in order to meet the emergency situation caused by the depression, the Committees on Banking and Currency adopted a new procedure to finance the activities of the Reconstruction Finance Corporation. The Reconstruction Finance Corporation Act authroized the RFC to sell its obligations directly to the Secretary of the Treasury, with the purchase of these obligations to be treated as a public-debt transaction. By borrowing directly from the Treasury in this manner, there was no necessity to secure the approval of the Committee on Appropriations for the expenditure of these funds.

This unique method of appropriating funds from the Treasury in a legislative bill set a precedent and was used from time to time during the depression years and World War II. Perhaps this procedure can be justified in emergency situations, but its use in recent years has become increasingly commonplace. The latest figures available show that on June 30, 1957, the cumulative total of direct borrowing from the Treasury amounted to $143 billion. As of the same date, over $28 billion in such funds were still outstanding. This amounted to about 10 percent of the total national debt.

There appears to be no letup in the ever-increasing use of this method of bypassing the Appropriations Committee. For example, the bills reported this year by the Senate Banking and Currency Committee and passed by the Senate have authorized over $5 billion in direct borrowing from the Treasury. These bills covered a wide range of activities—$2 billion for the Export-Import Bank; $1.8 billion for emergency housing; $1 billion for community facilities; and $300 million for area redevelopment. In addition to these bills that already have passed the Senate, the Banking and Currency Committee is currently considering an omnibus housing bill authorizing over $4 billion in direct borrowing from the Treasury. When one legislative committee alone can direct the expenditure of over $9 billion, the effectiveness of our entire budget and appropriation procedure is placed in jeopardy.

The latest use of this device is found in section 202 (a) of S. 3651, the proposed Small Business Investment Act. This section authorizes the Small Business Administration to borrow a total of $250 million from the Treasury. Thus, although this is supposed to be an experimental program, there will be no required review by the Appropriations Committees to determine whether the experiment is a success or a failure. The proponents of this program apparently are unwilling to let this legislation stand on its own merits and to have the expenditure of these funds justified.

It is surprising that over the years this procedure for authorizing direct borrowing from the Treasury in the legislative bill has not been tested by a point of order in the Senate. On many occasions the reverse situation, legislation in an appropriation bill, has been ruled out of order. It is obvious that any language in a bill that orders the payment of money from the Treasury without the necessity of further action by the Congress is an appropriation, and the Senate rules require such legislation to be referred to the Committee on Appropriations.

Those who defend the right of committees other than the Appropriations Committee to include an appropriation in a legislative bill claim exemption from rule 25 of the Senate because of the language in that rule "for the support of the Government." According to that claim, the Government, for which appropriations must be handled exclusively

by the Appropriations Committee, consists of the three branches of the Government—Executive, Judicial, and Legislative—and nothing more. But that interpretation would exclude the biggest appropriation bill this year, providing some $38 billion for defense. On the other hand, if we admit that the Armed Services Committees of the House and Senate could not bypass the Appropriations Committees and report appropriation bills for the Defense Department, we are forced to admit that the words "support of the Government" mean any duly authorized operation of the Government, and that covers everything that the Congress is authorized by the Constitution to do.

Frankly, it was a sad day for those of us who believe in economy as well as in States' Rights when the Congress claimed that the general welfare clause was a general grant of power instead of a limitation upon the taxing power and that claim was upheld by the Supreme Court of the United States, because, Mr. President, if you place no constitutional limitation upon what Congress can do, confusion arises concerning terms used when the Government was exercising no powers except those granted by the Constitution, expressly or by necessary implication. The Government is now engaged in a multiplicity of actions never dreamed of when rule 25 was originally adopted. Clearly, therefore, it would be an improper construction of rule 25 to say that it included some functions of the Government, and not all functions.

Again, it has been claimed that a legal right to bypass the Appropriations Committee has been established by precedent. Under the English common law, and I assume under the laws of all States, it is possible to gain possession of real estate by adverse possession, but there is nothing in the rules of the Senate or in the history of those rules to indicate that any rule of the Senate can be legally changed simply by frequent violations of it.

While admitting that members of the Senate Appropriations Committee have been very negligent through the years in the protection of their exclusive jurisdiction in the handling of appropriation bills, I respectfully submit that when we find just one committee of the Senate bypassing the Appropriations Committee with appropriations totaling over $9 billion in one session of the Congress, when we realize that over $28 billion or about 10 percent of the present national debt was created in that manner, and when we are told that we face a large deficit in this fiscal year and an unprecedented deficit in the next fiscal year, it should be apparent to all that the time has come when Members of the Senate must make a definite decision on how they prefer to make appropriations and manage the national debt.

If the Banking and Currency Committee can use this procedure to finance any new program its members desire, there is no reason why all the other committees cannot do the same. I would not be at all surprised if an attempt is made in the near future to finance the entire foreign aid program by direct borrowing from the Treasury, thus avoiding the risk of having these funds cut by the Appropriations Committee. In fact, there already is precedent for such action. The $3.7 billion loan to England in 1946 and the $60 million loan to Spain in 1950 were financed by direct borrowing from the Treasury. If the violation of rule XXV is permitted to continue, an endless number of Government programs could be financed in this manner.

I realize that there may be emergency situations in the future necessitating the use of the direct borrowing procedure. In such situations, the orderly legislative procedure would be to waive the rule by unanimous consent. In this manner the jurisdiction of the Appropriations Committee would be recognized and the entire process would be open and aboveboard.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. BENNETT. Is it the Senator's intention today to ask for the yeas and nays on a motion to overrule an adverse ruling of the Chair?

Mr. ROBERTSON. No. The Senator from Virginia recognizes we do not have a sufficient number of Senators present on the floor, and he feels that on a matter as important as this, instead of submitting the question to an inadequate group for a vote which might bind the Senate absolutely, it would be preferable to submit the matter to our distinguished Parliamentarian and risk his judgment on what the decision should be.

Mr. BENNETT. The Senator from Utah, by the way, is in complete accord with the position taken by his colleague from Virginia. He respectfully suggests that in this situation an adverse ruling from the Chair might create a precedent, particularly if no action is taken by the Senate and no attempt is made to overrule it.

I wonder if I might suggest to my colleague that, having raised the question, he wait until there is a full complement of the Senate available to discuss this very serious situation and withdraw his request for a ruling by the Chair.

Mr. ROBERTSON. Mr. President, the distinguished Senator from Utah has been very helpful to the junior Senator from Virginia in the consideration of this problem, in committee and on the floor. The Senator from Virginia recognizes that we do not have a sufficient number of Members of the Senate present on the floor to register such a vote as we would like to have this afternoon. That is clear.

We do not know what the Chair will rule, based upon the recommendation of the Parliamentarian. We can only make an assumption.

Under those circumstances, considering the magnitude of the question, since the membership perhaps should have a little more notice of what is involved, the Senator from Virginia is going to yield to the request of his distinguished colleague from Utah and merely say this is an important issue. It is presented now, but at a more propitious time it will be presented again, when we hope to have a vote of the entire membership. The point of order will not be made.

Mr. THYE. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I yield.

Mr. THYE. Mr. President, the reason why I asked to be recognized for a few minutes, if the Senator from Virginia will yield, is that unfortunately I am committed to attend a 3:30 appointment. There is a markup in the Appropriations Committee. Both the distinguished Senator from Virginia and I am members of the committee.

Mr. ROBERTSON. The Senator from Virginia has to attend the markup, and has a special meeting at 3 o'clock, for which he is already 20 minutes late, but he will yield.

Mr. THYE. I appreciate the Senator's courtesy. The Senator from Virginia is as gracious today as always. I deeply appreciate his courtesy.

Mr. President, if I may be recognized for a few minutes, I should like to make a statement, which relates to S. 3651, the bill presently before the Senate for consideration.

Mr. ROBERTSON. The Senator from Virginia yields for the statement.

Mr. FULBRIGHT subsequently said:

Mr. President, I ask unanimous consent that immediately following the remarks of the Senator from Virginia [Mr. ROBERTSON] on the point of order which was raised, there be printed in the RECORD two statements on the same subject. I should like to have these statements appear in the RECORD at this point in order to present my views with regard to the question raised in connection with the point of order.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENTS BY SENATOR FULBRIGHT

The Senator from Virginia, Mr. ROBERTSON raised the point of order that section 202 (a) of the proposed Small Business Investment Company Act constitutes an appropriation within the meaning of rule XXV of the Standing Rules of the Senate and that, therefore the Committee on Banking and Currency does not have jurisdiction to report such legislation.

Section 202 (a) authorizes the Small Business Administration to borrow up to $250 million directly from the Treasury and the Treasury is authorized to borrow funds in order to make this money available to the Small Business Administration.

Although the Senator from Virginia, in his individual views attached to the committee report, cites the constitutional mandate of article 1, section 9, that "No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law." I take it he does not argue that this procedure is unconstitutional. When it is recalled that the Senate Appropriations Committee was first established in 1867, it is readily seen that the establishment of, or the consideration of legislation by, the Senate Committee on Appropriations has nothing to do with the constitutional requirement. The constitutional requirement is that there shall be an appropriation by law, before money is drawn from the Treasury. It has nothing whatever to do with the internal parliamentary procedure in the Senate before a bill containing an appropriation becomes law.

Money was lawfully drawn from the Treasury for more than 75 years before there was a Committee on Appropriations. And for more than 90 years since the Committee on Appropriations was first established, money has lawfully been drawn from the Treasury, on the basis of appropriations handled by the Committee on Claims or the Committee on the Judiciary, and other committees, without reference to the Senate Committee on Appropriations.

The constitutional requirement is not relevant to the point of order made by the junior Senator from Virginia and should be kept entirely out of the discussion.

Within the meaning of the constitutional mandate, this provision in the bill does constitute an appropriation. There are many precedents for such authorizations which consistently have been held to comply with the constitutional mandate.

If there were any constitutional question, there are many essential Government programs that would be vulnerable because they did not originate in the Committee on Appropriations. I shall name some of them now:

Private claims bills originating in the Judiciary Committee;

Public Law 480, the Agricultural Trade Development Assistance Act of 1954 and the various increases in the borrowing authority of the Commodity Credit Corporation originating in the Agriculture Committee;

Acts affecting the Tennessee Valley Authority originating in the Public Works Committee;

The increases in the authority of the Export-Import Bank and the Defense Production Act originating in the Committee on Banking and Currency;

The Civil Defense Act originating in the Committee on Armed Services.

This list is by no means complete but is intended to give some idea of the implications of the argument which the Senator from Virginia makes.

Thus, I think it is clear that so far as the requirement of the Constitution is concerned, the argument of the Senator from Virginia is without merit. The language of the bill does meet the constitutional requirement that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law."

II

This, however ,does not mean that it is an "appropriation of the revenue for the support of the Government." This is the language of the XXV which gives the Committee on Appropriations its basic jurisdiction. If we analyze this language, we find that this provision of the bill does not meet the standard. It is not "for the support of the Government." Rather, the provision comes within that part of rule XXV assigning jurisdiction to the Committee on Banking and Currency, giving it authority to report matters including "financial aid to commerce and industry." This measure constitutes financial aid to small business, and it is clearly within the jurisdiction of the Committee on Banking and Currency.

Rule XXV follows the practice of the Senate for many years before the adoption of the current provisions of the rule, and even if the provisions of the rule were not so clear, they should be interpreted in accordance with the previous practice.

Rule XXV of the Standing Rules of the Senate was amended by the Legislative Reorganization Act of 1946, which was approved on August 2, 1946, and became effective as a rule of the Senate on January 2, 1947. Before that date, rule XXV listed the Senate committees, but did not specify what the jurisdiction of each committee was. (Rule XVI then as now provided that all general appropriation bills should be referred to the Committee on Appropriations.)

At the date of the enactment of the Legislative Reorganization Act of 1946, there were many programs under which payments were made by the Treasury to governmental agencies to finance public lending programs through public debt transactions. These programs included advances to the following agencies: Commodity Credit Corporation, Federal Farm Mortgage Corporation, Federal Public Housing Authority, Home Owners' Loan Corporation, Reconstruction Finance Corporation, Tennessee Valley Authority, Export-Import Bank, International Bank for Reconstruction and Development.

Clearly the practice of financing governmental lending programs through public debt transactions of the sort proposed in section 202 (a) was widespread and well known at the time the present rule XXV was adopted.

It was also a widespread and well known practice at the time of the enactment of the Legislative Reorganization Act of 1946 to handle private claims bills though committees other than the Committee on Appropriations. The Legislative Reorganization Act of 1946 specifically gave to the Senate Committee on the Judiciary jurisdiction over all measures relating to claims against the United States, including those private claims bills.

The Senate report on the Legislative Reorganization Act of 1946 (S. Rept. No. 1400; 79th Cong., 2d sess.) does not indicate any intention to confer on the Committee on Appropriations any additional jurisdiction. At pages 12 through 17 of that report appears a table showing the jurisdiction of the then present and proposed committees. This table sets forth the jurisdiction of the Committee on Appropriations as "appropriation of the revenue for the support of the Government," and gives the Committee on Appropriations as the present committee and the proposed committee having jurisdiction over this subject. There is no indication in the bill or the report that it was the intention of rule XXV or any other rule to prohibit this practice.

The adoption of Senate rule XXV as part of the Legislative Reorganization Act of 1946, with the understanding that it continued the previous jurisdictions of the Committee on Appropriations and the Committee on Banking and Currency in these respects, amounted to an adoption, or ratification, of the previous interpretation of and practices under the previous jurisdictional arrangements. This is analogous to the widely known rule of construction that reenactment of a statute reaffirms previous judicial construction and previous administrative interpretations of the statute.

If rule XXV were interpreted to give to the Committee on Appropriations jurisdiction over all legislation providing for the disbursement of money, and not just appropriations for the support of the Government, this would subject to a point of order the annual extensions of Public Law 480, 83d Congress, the Agricultural Trade Development Assistance Act of 1954. Under this act foreign currencies equivalent to $1.9 billion has already been collected. Some of these foreign currencies are available for sale to United States agencies for programs for which funds have been appropriated. Most of these funds are, however, authorized to be spent or lent for purposes specified in Public Law 480 without reference to the Committee on Appropriations.

If this bill is subject to this point of order, so are the almost annual increases in the borrowing authority of the Commodity Credit Corporation, originating in the Agriculture Committee. So are all the private claims bills, originating in the Judiciary Committee. So would be the Civil Defense Act, originating in the Armed Services Committee.

The Senator from Virginia last year himself sponsored the Financial Institutions Act. That act carried borrowing authority, without reference to appropriations by the Appropriations Committee, of not less than $4,750,000,000 for the FDIC, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation.

The Senator from Virginia, as vice chairman of the Joint Committee on Defense Production, has been pressing for an extension of the Defense Production Act. He recently wrote me urging committee action on it, without hearings. That act carries borrowing authority of $2,100,000,000.

If this point of order is applicable here, it is applicable to the Defense Production Act.

There is another important aspect of this question, having to do with the relations between the Senate and the House of Representatives.

It is the practice that appropriations originate in the other body. If this bill carries an appropriation of the type required to be referred to the Appropriations Committee, then, by the same token, it must originate in the House. I don't believe the Senate wants to establish a precedent which will require all such legislation as I have mentioned to originate in the House.

Senate rule XXV does not by its own terms give juristiction to the Committee on Appropriations over appropriations other than appropriations for the support of the Government. Senate rule XXV was adopted by the Senate with full knowledge and apparent ratification of the practice of using public debt transactions to finance lending programs and private claims through committees other than the Committee on Appropriations. Financing lending programs through borrowings from the Treasury under public debt transactions, like authorizations for disbursement of money under private claims bills and payments under Public Law 480, is not within the jurisdiction of the Committee on Appropriations under rule XXV and a bill containing such a provision is not subject to a point of order.

III

The authority conferred in section 202 (a) to borrow money from the Treasury through a public debt transaction in order to obtain the funds for this small-business credit program should be adopted as a matter of sound policy.

Public debt transactions have ordinarily been used for lending programs where it is expected that the amounts advanced will be lent out on interest. In some cases the advance represents a capital contribution, such as the contributions to the stock of the Export-Import Bank or the subscription to the International Bank for reconstruction and development. In most cases, however, the amount is expected to be repaid. The total advances of $26.6 billion to the RFC, after deducting cancellations of $12.8 billion representing national defense, war and reconversion activities and similar items, and transfers to liquidating agencies, have ended up, according to Assistant Secretary of the Treasury Robbins' letter of May 7, 1957, with a net income of June 30, 1957, of $333 million, after charging off interest for the Treasury equivalent to the amount paid by the Treasury on its borrowings.

It makes better sense to treat the financing of a lending program as a borrowing of capital through a public debt transaction rather than an expenditure of income through the ordinary type of appropriation.

The enactment of a bill establishing a program through a public debt transaction does not deprive the Committee on Appropriations of all its authority. The Federal Flood Insurance Act of 1956 authorized a substantial program using an open-ended public debt transaction. The legislation

came to naught, because appropriations for the administration of the Act were denied in 1957.

The Committee on Appropriations is kept fully advised of all activities carried on under public debt transactions, which are set forth clearly in the annual budget document. (See, for example, pp. 134, 173, 276–277, and 338–339 of the 1959 budget document.) Public debt transactions affect the public debt of the United States, which is a matter of concern to the Committee on Finance. That committee can exercise restraint over the use of public debt transactions through the debt ceiling legislation.

There are special reasons why this program should be financed as provided in the bill. It is a program which will depend upon private people going to the trouble and expense of organizing development corporations and investment companies and committing their own funds for a long period of time. (The program is to provide long-term financing for small business.) They can hardly be expected to do so, if the Federal commitment is dependent upon annual appropriations which might be cut off at any time.

In his individual views Senator ROBERTSON suggests that in 1932 the Committee on Banking and Currency for the first time in the history of the United States provided funds for a program without having the program reviewed by the Committee on Appropriations.

The specific procedure of financing a lending program through a public-debt transaction was, as far as I know, first used in the case of the RFC in 1932. However, 1932 was not the first time funds were provided for a substantial lending program without review by the Committee on Appropriations.

The Federal Farm Loan Act, approved July 17, 1916, provided for the establishment of Federal land banks. The public was allowed 30 days to subscribe to the stock of these banks. If, when this 30-day period had elapsed, the minimum capital was not subscribed, the statute provided as follows:

"It shall be the duty of the Secretary of the Treasury to subscribe the balance thereof on behalf of the United States * * * and the Secretary of the Treasury is hereby authorized and directed to take out shares corresponding to the unsubscribed balance as called, and to pay for the same out of any moneys in the Treasury not otherwise appropriated."

This bill was reported out of the Senate Committee on Banking and Currency.

Section 6 of the Federal Railroad Control Act of 1918, approved May 21, 1918, authorized the President to lend money to carriers out of the revolving fund created by the act. Section 6 of the act provided in part as follows:

"SEC. 6. That the sum of $500 million is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, which, together with any funds available from any operating income of said carriers, may be used by the President as a revolving fund for the purpose of paying the expenses of Federal control."

This bill was reported out of the Committee on Interstate Commerce.

The War Finance Corporation Act, approved April 15, 1918, in addition to authorizing the borrowing of several billions from the public, provided that the capital stock of the corporation should be subscribed by the United States and provided funds as follows:

"And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $500 million, or so much thereof as may be necessary for the purpose of making payment upon such subscription when and as called."

This bill was reported out of the Senate Committee on Finance.

The Merchant Marine Act of 1920, approved June 5, 1920, authorized loans to encourage construction of vessels by citizens of the United States in American shipyards. Section 11 of the act provided in part:

"SEC. 11. That during a period of 5 years from enactment of this act, the board may annually set aside out of the revenues from the sales and operations a sum not exceeding $25 million to be known as the construction-loan fund, to be used in aid of the construction of vessels."

This bill was reported by the Senate Committee on Commerce.

Mr. FULBRIGHT. I also ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a table designated as "Table 4," entitled "Receipts, Expenditures, and Balances, 1957: Public Debt Transactions." This table is found on pages 500 and 501 of a book entitled "Combined Statement of Receipts, Expenditures, and Balances of the United States Government for the Fiscal Year Ended June 30, 1957."

The table gives a cumulative listing of the various operations employed in public debt transactions, showing the history of what the various congressional committees have handled in the past. In the margin the staff member has indicated the committee which handled the various subjects.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—*Expenditures handled under congressional authorizations as public debt transactions cumulative to June 30, 1957*

Senate Committee	Purpose of expenditure and agency	Citation	Expenditures, advances by Treasury [1]	Notes acquired as a result of cancellations	Cash repayments [1]	Cancellations of securities acquired (see table 5)	Transfers between agencies	Balance of securities acquired June 30, 1957
	Advances in exchange for bonds or notes:							
	Commodity Credit Corporation.	15 U. S. C. 713 a–4.	$87, 338, 000, 000. 00		$70, 664, 435, 346. 25	$3, 290, 564, 653. 75		$13, 383, 000, 000. 00
Banking and Currency.	Export-Import Bank of Washington:							
	Regular activities	12 U. S. C. 635d.	3, 727, 200, 000. 00		2, 549, 200, 000. 00			1, 178, 000, 000. 00
	Liability transferred from the Reconstruction Finance Corporation.	Reorg. Plan No. 2 of 1954.			15, 464, 440. 21		[2] $42, 000, 000. 00	26, 535, 559. 79
Banking and Currency/Agriculture.	Federal Farm Mortgage Corporation.	12 U. S. C. 1020c–1.	988, 800, 000. 00		988, 800, 000. 00			
Banking and Currency.	Federal National Mortgage Association:							
	Regular activities	12 U. S. C. 1716 et seq.	5, 429, 450, 468. 73		[3] 3, 779, 919, 457. 65			1, 649, 531, 011. 08
	Liability transferred from the Reconstruction Finance Corporation.	Reorg. Plan No. 2 of 1954.					[3] 91, 768, 172. 45	91, 768, 172. 45
Do	Home Owners' Loan Corporation.	12 U. S. C. 1463 (c).	2, 446, 000, 000. 00		2, 317, 827, 891. 09	128, 172, 108. 91		
Do	Housing and Home Finance Administrator:							
	College housing loans.	12 U. S. C. 1749 (b).	248, 244, 872. 73		20, 388, 323. 29			227, 856, 549. 44
	Prefabricated housing loans program.	12 U. S. C. 1701 g; 1701 g–1.	36, 170, 296. 71		27, 785, 815. 89	8, 384, 480. 82		
	Public facility loans.	Act, Aug. 11, 1955.	1, 400, 000. 00					1, 400, 000. 00
	Urban renewal fund.	42 U. S. C. 1452 (c).	67, 000, 000. 00		14, 000, 000. 00			53, 000, 000. 00
Foreign Relations	International Cooperation Administration:							
	Mutual Defense assistance program.	22 U. S. C. 1933 (f)	1, 121, 995, 402. 12		4, 868, 362. 48			1, 117, 127, 039. 64
	Assistance to Spain.	Act, Sept. 6, 1950	60, 862, 041. 71		5, 361, 871. 72			55, 500, 169. 99
	India emergency food aid.	50 U. S. C. App. 2312	27, 254, 316. 00		1, 824, 004. 48			25, 430, 311. 52
	Foreign investment guaranty fund.	22 U. S. C. 1933 (F)	9, 242, 389. 33		12, 389. 33		[4] 9, 230, 000. 00	

Footnotes at end of table.

TABLE 4.—*Expenditures handled under congressional authorizations as public debt transactions cumulative to June 30, 1957*—Continued

Senate Committee	Purpose of expenditure and agency	Citation	Expenditures, advances by Treasury [1]	Notes acquired as a result of cancellations	Cash repayments [1]	Cancellations of securities acquired (see table 5)	Transfers between agencies	Balance of securities acquired June 30, 1957
Banking and Currency.	Public Housing Administration.	42 U. S. C. 1420	$2,708,817,701.61		$2,661,996,329.43	$5,821,372.18		$41,000,000.00
Do	Reconstruction Finance Corporation.	15 U. S. C. 606	26,613,539,956.71		13,615,743,333.78	12,848,664,319.48	[a,5] $149,132,303.45	
Agriculture	Rural Electrification Administration.	7 U. S. C. 903	2,424,300,000.00	[6] $510,848,903.98	416,198,021.05			2,518,950,882.93
Foreign Relations	Saint Lawrence Seaway Development Corporation.	33 U. S. C. 985	48,300,000.00					48,300,000.00
Agriculture	Secretary of Agriculture: Farmers Home Administration:							
	Loan programs	7 U. S. C. 1005; 1032	1,303,742,000.00	[6] 40,367,816.15	1,132,160,857.97			211,948,958.18
	Farm housing program.	42 U. S. C. 1481	80,000,000.00		38,744,248.59			41,255,751.41
	Farm tenant mortgage insurance fund.	7 U. S. C. 1005c	7,725,000.00					7,725,000.00
Do	Secretary of the Army (Natural fibers revolving fund) (62 Stat. 1098).	5 U. S. C. 234	100,000,000.00		100,000,000.00			
Armed Services	Secretary of the Treasury (Federal Civil Defense Act of 1950).	15 U. S. C. 606; 50 U. S. C. App. 2061	2,305,000.00		3,053,970.61		[7] 1,813,970.61	1,065,000.00
Banking and Currency.	Small Business Administration: Liability transferred from the Reconstruction Finance Corporation.	Reorg. Plan No. 2 of 1954			6,400,160.39		[2] 13,550,160.39	7,150,000.00
Agriculture-Public Works.	Tennessee Valley Authority.	16 U. S. C. 831 n-3.	56,772,500.00		56,772,500.00			
Foreign Relations	United States Information Agency: Informational media guarantee fund.	22 U. S. C. 1442 (b)	3,745,000.00				[4] 9,230,000.00	12,975,000.00
Banking and Currency.	Veterans' Administration (Veterans' direct loan program).	38 U. S. C. 694 m	733,484,399.00					733,484,399.00
Do	Defense Production Act of 1950, as amended:							
	Defense Materials Procurement Agency.	50 U. S. C. App. 2094	125,000,000.00		125,000,000.00			
	Export-Import Bank of Washington.	50 U. S. C. App. 2094	44,973,314.64		10,469,173.19			34,504,141.45
	General Services Administration.	50 U. S. C. App. 2094	1,018,700,000.00					1,018,700,000.00
	Reconstruction Finance Corporation.	50 U. S. C. App. 2094	178,800,000.00		47,100,000.00		[a,8] 131,700,000.00	
	Secretary of Agriculture.	50 U. S. C. App. 2094	47,336,000.00					47,336,000.00
	Secretary of the Interior: (Defense Minerals Exploration Administration).	50 U. S. C. App. 2094	26,000,000.00					26,000,000.00
	Secretary of the Treasury.	50 U. S. C. App. 2094	91,130,000.00		54,940,000.00		[8] 131,700,000.00	167,890,000.00
	Total advances in exchange for bonds or notes.		137,116,290,659.29	551,216,720.13	98,658,466,497.40	16,281,606,935.14		22,727,433,946.88
Do	Advances to Export-Import Bank of Washington for payment of subscription to capital stock.	12 U. S. C. 635 b	999,000,000.00					999,000,000.00
	Subscription to preferred stock of Federal National Mortgage Association (secondary market operations).	12 U. S. C. 1718	[3] 71,000,000.00					71,000,000.00
	Payment of subscription to the International Bank for Reconstruction and Development.	22 U. S. C. 286 e	635,000,000.00					635,000,000.00
	Payment of subscription to the International Finance Corporation.	22 U. S. C. 282 e	35,168,000.00					35,168,000.00
	Payment of subscription to the International Monetary Fund.	22 U. S. C. 286 e	[9] 950,000,000.00					950,000,000.00
	Credit to the United Kingdom.	Act, July 15, 1946.	3,750,000,000.00		[10] 279,678,428.06			3,470,321,571.94
	Grand total		143,556,458,659.29	551,216,720.13	98,938,144,925.46	16,281,606,935.14		28,887,923,518.82

SUMMARY

Expenditures made and bonds and notes acquired	$144,107,675,379.42
Cash repayments	[a] 98,938,144,925.46
Cash recoveries against securities acquired through cancellations (table 5, pt. II)	[a,11] 2,050,888,196.95
Net expenditure outlay	$43,118,642,257.0

Footnotes at end of table.

SUMMARY—continued

Cancellations of securities acquired and recoveries:		
Securities canceled (table 5, pt. I)	$16,281,606,035.14	
Recoveries—cash (table 5, pt. II)	[a] [11] 2,050,888,196.95	
Recoveries—capital stock acquired against cancellations and still held (table 5, pt. III)	[a] [12] 137,981,000.00	
Expenditures for which no recovery may be made		$14,092,737,738.19
Balance to be accounted for		29,025,904,518.82
Securities held:		
Securities acquired against expenditures		28,793,272,635.89
Notes acquired against cancellations		94,650,882.93
Capital stock acquired against cancellations		[12] 137,981,000.00
Total held		29,025,904,518.82

[a] Deduct.

[1] Excludes exchanges of notes. Includes refundings that were handled as public debt transactions.

[2] Transferred from the Reconstruction Finance Corporation pursuant to Reorganization Plan No. 2 of 1954, effective at the close of business June 30, 1954.

[3] Includes $71,000,000 representing exchange of notes for preferred capital stock.

[4] Represents obligation on notes transferred from International Cooperation Administration to the United States Information Agency in accordance with sec. II of the act approved July 18, 1956 (70 Stat. 563).

[5] Includes $147,318,332.84 transferred to the Export-Import Bank of Washington, the Federal National Mortgage Association, and the Small Business Administration in accordance with Reorganization Plan No. 2 of 1954 (see footnote 2); and $1,813,970.61 transferred to the Secretary of the Treasury (Federal Civil Defense Act of 1950), pursuant to the act approved July 30, 1953 (67 Stat. 230).

[6] Advances for these securities originally were made by the Reconstruction Finance Corporation. Pursuant to the act approved July 30, 1947 (61 Stat. 545, 547) the securities were transferred to the U. S. Treasury and Reconstruction Finance Corporation notes cancelled in like amount. (See table 5.)

[7] Transferred from the Reconstruction Finance Corporation pursuant to the act approved July 30, 1953, (67 Stat. 230).

[8] Transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury pursuant to the act approved July 30, 1953 (67 Stat. 230), and Executive Order No. 10489 to Sept. 26, 1953.

[9] Additional subscriptions to the International Monetary Fund in the amount of $1,800,000,000 were paid from the stabilization fund, which was created pursuant to the Gold Reserve Act of 1934 as amended.

[10] Includes $96,941,785.08 deposited in miscellaneous receipts of the U. S. Treasury.

[11] Excludes $416,198,021.05 repayments of loans shown in table 5, pt. II, because this amount is included in cash repayments above.

[12] Excludes other assets amounting to $58,498,624.11 shown in table 5, pt. III.

Mr. CASE of South Dakota. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a letter dated June 6, 1958, from the Comptroller General, addressed to me, dealing with this subject. Accompanying the letter is a table entitled "Statement of Transactions Relating to Authorizations To Expend From Public Debt Receipts, as of May 31, 1953." I believe that the table refers to balances of the same fund to which the Senator from Arkansas [Mr. FULBRIGHT] referred, because the letter refers to certain statements for June 30, 1957. This table carries the information forward to May 31, 1958.

There being no objection, the letter and table were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, June 6, 1958.

Hon. FRANCIS CASE,
United States Senate.

DEAR SENATOR CASE: Reference is made to your request of June 2, 1958, for information regarding the extent to which Government agencies have been authorized to obtain funds from the Secretary of the Treasury in exchange for their notes, or other evidences of indebtedness, under transactions authorized by Congress to be treated as public-debt transactions. It is understood that your interest arises as a result of the provisions of S. 3651, entitled "Small Business Investment Act of 1958."

We are enclosing a copy of Statement of Transactions Relating to Authorizations To Expend From Public Debt Receipts as of May 31, 1958, which was prepared and issued by the Treasury Department. The statement shows that various Government corporations and agencies have obtained $21,611,645,673 in the foregoing manner from the Secretary of the Treasury which was still outstanding as of May 31, 1958. The amount outstanding does not include balances, the repayment of which has been canceled by various acts of Congress. In addition, the statement shows that the corporations and agencies are authorized to obtain $25,573,324,414 additional from the Secretary of the Treasury, which had not been drawn as of May 31, 1958. Cumulative tables relating to expenditures handled as public-debt transactions may be found in section II, beginning at page 500, of the Treasury Department's Combined Statement of Receipts, Expenditures, and Balances of the United States Government for the fiscal year ended June 30, 1957.

The General Accounting Office has for many years taken the position that funds to finance Government activities should be made available to the corporations and agencies responsible for administering the programs through the normal appropriation processes rather than through authorizations to finance through public-debt transactions. In a letter dated April 22, 1958, to the chairman of the Senate Committee on Banking and Currency, submitted at the committee's request for our comments on a committee print dated April 11, 1958, which, like S. 3651, proposed to create a Small Business Investment Administration whose activities would be financed with funds to be obtained from the Secretary of the Treasury as public-debt transactions, we gave the following reasons for opposing this method of financing:

"Authorizations to finance through public-debt transactions result in moneys being expended without the initial review by the Appropriations Committees and are usually stated in terms of a continuing maximum amount of obligations to the Treasury which can be outstanding at any time, thus avoiding the annual reviews by the Appropriation Committees. We believe that the financing of loan programs through public-debt transactions, by combining program authority with funding, tends to perpetuate programs that might not otherwise stand the test of continued congressional scrutiny."

Similar comments with respect to other bills introduced in the 85th Congress that would authorize financing through public-debt transactions are contained in reports to the appropriate legislative committees expressing our views on S. 964, the proposed Area Redevelopment Act; S. 3114, which would establish a corporation to be known as the Columbia River Development Corporation; and H. R. 12058, the proposed School Construction Assistance Act of 1958.

We trust that the information furnished will serve the purpose of your inquiry.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

[Enclosure.]

Statement of transactions relating to authorizations to expend from public debt receipts as of May 31, 1958

Accounts (1)	Balance of authorizations at beginning of fiscal year 1958 (2)	Net additional public debt authorizations granted by Congress through May 31, 1958 (3)	Total advances made from July 1, 1957, through May 31, 1958 (4)	Repayments made during fiscal year 1958 which affected borrowing authorizations (5)	Repayments made during fiscal year 1958 which do not affect borrowing authorizations (6)	Net change (cols. (4)−(5)) (7)	Unused authorizations, May 31, 1958 (cols. (2)+(3)−(7)) (8)	Net amount due Treasury, May 31, 1958 (9)
Commodity Credit Corporation	$1,117,000,000.00	0	$3,087,000,000.00	$5,372,000,000.00	0	$2,285,000,000.00	$3,402,000,000.00	$11,098,000,000.00
Export-Import Bank of Washington:								
Regular	2,822,000,000.00	$2,000,000,000.00	591,500,000.00	279,300,000.00	0	−312,200,000.00	4,509,800,000.00	1,490,200,000.00
Transferred from RFC [1]	0	0	0	0	$6,134,744.81	0	0	20,400,814.98
Federal Deposit Insurance Corporation	3,000,000,000.00	0	0	0	0	0	3,000,000,000.00	0
Federal Farm Mortgage Corporation	500,000,000.00	−500,000,000.00	0	0	0	0	0	0
Federal Home Loan Banks	1,000,000,000.00	0	0	0	0	0	1,000,000,000.00	0
Federal National Mortgage Association:								
Management and liquidating functions	274,400.00	−1,177,274,400.00	70,700,000.00	1,247,700,000.00	0	1,177,000,000.00	0	539,188,477.42
Secondary market operations	1,346,766,185.67	900,000,000.00	703,444,012.55	529,796,533.68	0	−173,647,478.87	2,073,118,706.80	176,881,293.20
Special assistance functions	[2] 575,374,282.87	2,050,000,000.00	128,126,143.92	2,482,796.34	0	−125,643,347.58	2,499,730,935.29	147,520,239.36
Preferred stock	0	65,000,000.00	0	0	0	0	65,000,000.00	71,000,000.00
Federal Savings and Loan Insurance Corporation	750,000,000.00	0	0	0	0	0	750,000,000.00	0
Housing and Home Finance Agency:								
College housing	522,143,450.56	175,000,000.00	150,000,000.00	0	0	−150,000,000.00	547,143,450.56	377,856,549.44
Flood insurance	500,000,000.00	0	0	0	0	0	500,000,000.00	0
Public facility loans	98,600,000.00	0	11,700,000.00	0	0	−11,700,000.00	86,900,000.00	13,100,000.00
Urban renewal program	947,000,000.00	0	20,000,000.00	0	0	−20,000,000.00	927,000,000.00	73,000,000.00
International Cooperation Administration:								
Loan to Spain	1,637,958.29	0	1,052,652.07	0	3,397,864.69	−1,052,652.07	585,306.22	53,154,957.37
Mutual defense assistance program	310,335.28	0	0	0	4,590,924.08	0	310,335.28	1,112,536,115.56
India emergency food aid	0	0	0	0	1,211,375.83	0	0	24,218,935.69
Industrial media guaranty	199,071,521.50	0	0	0	0	0	199,071,521.50	
Public Housing Administration	1,459,000,000.00	0	96,000,000.00	92,000,000.00	0	−4,000,000.00	1,455,000,000.00	45,000,000.00
Rural Electrification Administration	929,236,718.00	239,000,000.00	300,236,718.00	0	44,217,747.46	−300,236,718.00	868,000,000.00	2,774,969,853.47
St. Lawrence Seaway Development Corporation	56,700,000.00	35,000,000.00	44,600,000.00	0	0	−44,600,000.00	47,100,000.00	92,900,000.00
Secretary of Agriculture:								
Farmers' Home Administration	0	209,500,000.00	209,500,000.00	0	[3] 112,459,470.77	−209,500,000.00	0	308,989,487.51
Farm tenant-mortgage insurance loans	12,275,000.00	10,000,000.00	12,100,000.00	17,465,000.00	0	5,365,000.00	27,640,000.00	2,360,000.00
Farm housing loans	400,000,000.00	0	0	0	4,196,249.75	0	400,000,000.00	37,059,501.66
Secretary of the Treasury:								
Federal Civil Defense	248,935,000.00	0	0	170,000.00	0	170,000.00	249,105,000.00	895,000.00
Small Business Administration [1]	0	0	0	0	7,150,000.00	0	0	0
United States Information Agency: Informational media guarantee	15,012,610.67	0	3,640,000.00	0	0	−3,640,000.00	11,362,610.67	16,615,000.00
Veterans' Administration: Veterans direct loan program	0	49,571,200.00	49,571,200.00	0	[4] 2,977,603.00	−49,571,200.00	0	780,077,996.00
Defense Production Act of 1950, as amended:								
Export-Import Bank of Washington	15,495,858.55	0	670,586.93	3,464,277.04	0	2,793,690.11	18,289,548.66	31,710,451.34
General Services Administration	501,300,000.00	145,000,000.00	380,000,000.00	0	0	−380,000,000.00	266,300,000.00	1,398,700,000.00
Secretary of Agriculture	18,489,000.00	0	11,297,000.00	0	0	−11,297,000.00	7,192,000.00	58,633,000.00
Secretary of the Interior	8,000,000.00	4,800,000.00	4,000,000.00	0	0	−4,000,000.00	8,800,000.00	30,000,000.00
Secretary of the Treasury	89,710,000.00	0	6,425,000.00	7,805,000.00	0	1,380,000.00	91,090,000.00	166,510,000.00
Unallocated	172,575,000.00	−149,800,000.00	0	0	0	0	22,775,000.00	0
International Bank for Reconstruction and Development [4]	2,540,000,000.00	0	0	0	0	0	2,540,000,000.00	635,000,000.00
International Finance Corporation	0	0	0	0	0	0	0	35,168,000.00
Total	19,846,907,321.39	4,055,796,800.00	5,881,563,313.47	7,552,183,607.06	186,335,980.39	1,670,620,293.59	25,573,324,414.98	21,611,645,673.00

[1] Transferred from Reconstruction Finance Corporation pursuant to Reorganization Plan No. 2 of 1954.

[2] Reductions of $180,813.94 and $2,568,011,41 not reflected in the June 30, 1957 (final) statement, representing adjustments in authorizations as reported by the Federal National Mortgage Association for the fiscal years 1956 and 1957 based on the portion of mortgage portfolio financed by earnings, working capital, and purchase discounts.

[3] Includes $1,020,000.00 return of uncommitted funds.

[4] To adjust net amount due Treasury account deposits made to miscellaneous receipts No. 3324 pursuant to law.

Mr. CASE of South Dakota. I hope later to have the opportunity to make some comment on these tables.

Mr. THYE. I thank the Senator from Virginia for yielding.

Mr. President, I should like to take up the matter of S. 3651, which has been referred to the Committee on Banking and Currency, and which is before the Senate for our consideration. The bill, which is certainly a very worthy one, is designed to make equity capital more readily available to small business concerns. As I understand the bill, the administration of the program is to be carried out through the existing Small Business Administration.

Five years ago I had the privilege of introducing the bill which established the Small Business Administration. There was a provision in the bill for establishing the Small Business Administration as a permanent agency. My question today, which I have been asking for quite some time, is: Why has not Congress enacted into law my bill, or other similar bills which would make the Small Business Administration a permanent agency?

We have a very interesting situation: S. 3651 calls for certain programs to be carried out by the Small Business Administration, yet that agency has less than a month of life remaining. Earlier this year, I appeared before the committee and strongly urged that action be taken to guarantee the future of the Small Business Administration. The Congress was assured that proper action would be taken. Since that time, up to the present moment, I have received no information which would indicate that there is any particular plan underway to extend the life of the Small Business Administration or to make it a permanent agency.

Four times in the past 5 years the Senate has taken temporary action to extend the life of the Small Business Administration.

As I have stated before, such a pro-

cedure does not encourage banks to participate in a vast lending program. Local financial concerns in communities throughout our Nation cannot be expected to participate in making loans with an agency whose continued existence is constantly in doubt.

Because of congressional delay last year the life of the Small Business Administration lapsed for a time after midnight, June 30th. Once again we are faced with the same situation. The point I have made earlier is still valid. The working efficiency of the agency is constantly placed in jeopardy when the job security of its competent personnel is periodically subject to doubt, when experienced people do not know what the next month will bring. Along this line, the Small Business Administration cannot be expected to carry out effective programs of procurement assistance when the job-security of its competent people is periodically in question and when other Government agencies know they are not dealing with a permanent agency of government.

So I say, Mr. President, that I believe S. 3651 is a good bill. But it cannot be implemented because of the situation existing with respect to the SBA. In order to be effective, the Small Business Administration must be a permanent agency. We must take action. And we must take action now.

Mr. President, in the report of the committee hearings, a copy of which is on the desk of each Senator. Senators will find on page 361 that I submitted a report to the committee and asked the committee to give consideration to S. 3643, the Small Business Capital Act of 1958, which I had introduced, which would make the Small Business Administration a permanent agency of the Goverment.

Mr. President, I again invite the attention of members of the Committee on Banking and Currency to the fact that we should act with respect to the extension of the life of the Small Business Administration as covered in bills presently before the committee. We should make the Small Business Administration permanent, rather than having the permanency of the Administration constantly in question and having a doubt as to whether the life of the Administration will be extended from 1 year to the next.

Mr. FULBRIGHT rose.

Mr. THYE. I see my distinguished friend from Arkansas is on his feet.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. THYE. The Senator from Arkansas is one of the senior members of the Committee on Banking and Currency. In fact, the Senator from Arkansas is the chairman of the committee. I appeal to the Senator to help obtain the reporting of the bill relating to the Small Business Administration from the commitee, so that we may consider the matter on the floor.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. THYE. I am delighted to yield.

Mr. FULBRIGHT. We shall give that matter consideration at the earliest possible moment. I assure the Senator the Small Business Administration will not be permitted to lapse, but the life of the Administration will be extended. We have had preliminary discussions as to the matter. I think the committee is in agreement that the SBA will be extended.

I regret that I cannot agree with the Senator from Minnesota as to making the Administration permanent. The Small Business Administration has never been made permanent, but it's life has been extended from time to time. I personally shall favor that procedure.

Certainly the life of the Administration will be extended for a reasonable time. Such a process requires the committee to review the matter periodically. I assure the Senator he need not be concerned about the Small Business Administration going out of business, for the life of that agency will be continued.

Mr. THYE. Mr. President, it is most encouraging to have that statement from the distinguished chairman of the committee, but I frankly appeal again for the making of the Small Business Administration a permanent agency of government, so that the personnel may have more security. The Senator from Arkansas and I are concerned about our tenure. The Senator and I serve for a period of 6 years, when once elected to the Senate, yet the Senator and I do not feel too secure and comfortable with a 6-year term. Certainly an employee of the Small Business Administration, who has security only from 1 year to the next, is going to look around for another job if he can find one. I would not blame him for doing so. Therefore, the agency is constantly in jeopardy.

Mr. FULBRIGHT. If the Senator will yield further, I think the Senator overstates the case. I do not believe the agency feels it is constantly in jeopardy.

The assumption is that the Administration will be extended continuously, so long as there is a need for it.

Personally I think the proposed legislation, which is presently under consideration, if it operates as well as I hope it will, will gradually make the need for some of the operations of the Small Business Administration less critical, and very likely the Government may be able to work itself out of this field. I should like to see the Government out of the short-term business lending field eventually, in which it is involved due to the Small Business Administration's operations. If we can make this program succeed as well as the lending operations in the field of agricultural credit are succeeding, perhaps the Government will really be out of the entire field soon.

Mr. THYE. At the time I introduced a Small Business Administration bill, I envisioned that we would provide for the young businessmen on the main streets of America the same opportunity we have afforded young farm families under the Farm Home Administration Act. If a young couple has had a history of responsibility and is deserving, and if it is considered that they would be good managers if given an opportunity, we have made it possible for them to obtain a loan, either to become farm operators on a rental basis, or even buy a piece of property for a farm home. That program has assured the continuation of individual ownership and individual management in the rural communities and areas of America.

Because of the type of society in which we live, the young man is, of course, confronted with the necessity for an automobile, in order to travel in a normal course of activity in society. Neither the Senator nor I would be exactly happy to have some young man coming to call on his daughter if he were to arrive on a bicycle, or if he were coming on foot, when all the other young people in the community travel in automobiles. Consequently, the youth of today spend most of their early earnings in acquiring an automobile, in order to travel in a normal way in society. When they assume the responsibility of a family, and then try to go into business, they find they have not the necessary capital. Yet they may be most deserving.

The young family man should be assisted to get into business, where he will have the responsibility of business management. That is what I envisioned when I introduced the small-business bill originally. That is what I still envision.

I still believe that we are failing the young businessmen of America by not aiding them to become managers of small businesses.

If we do not have individual ownership and management of small businesses, we shall lose something which has made the United States a great Nation. It is for that reason that I have held fast to the idea that the Small Business Administration has a place in our Nation's economy. I shall always endeavor to promote this type of legislation, in order to take care of the small-business man in the same way in which we take care of young farm families throughout rural America.

This program is not embodied in Senate bill 3651. While I shall support the pending bill I hope we can perfect it and extend the life of the Small Business Administration, making it a permanent agency. If the proposed legislation is not in the desired form, let us amend it, so as to make the legislation broader and more effective.

Again I appeal to the distinguished Senator from Arkansas, who is very influential within this legislative Chamber, to use his influence to have the Small-Business Administration bill reported from his committee. It would provide for a permanent agency. If the bill is not what is desired, let us amend it and broaden it, so as to do what is necessary for the young businessmen of America, and to make certain that they have an opportunity to become managers or owners of small businesses. If we do that for the young business people of America, we need not worry about what our streets are going to be like 20 or 30 years from now.

Mr. WILLIAMS. Mr. President, I should like to have the attention of the chairman of the committee. The text of the bill, beginning on page 50, line 10, and extending to page 52, through line 17, embraces a proposed amendment to the

Internal Revenue Code. I am wondering if the committee did not make a mistake when it placed this provision in the bill, because, in the first place, measures of such nature should be considered by the Senate Finance Committee. Secondly, revenue measures should originate in the House.

I am wondering if the chairman of the committee would agree to strike this language without prejudice. I am not discussing the merits of the proposal. I have not examined it, and neither has the committee. I think it would be much better to offer this language in the form of an amendment to a bill which is now pending before the Finance Committee, in connection with which this subject could be considered.

I also understand that at this time the House Ways and Means Committee is studying some similar legislation and will bring forward a recommendation. I oppose adopting the precedent of amending the Internal Revenue Code in a bill reported from the Committee on Banking and Currency.

Mr. FULBRIGHT. Mr. President, this provision is strictly incidental to the main purpose of the proposed legislation. I invite attention to the fact that about a year ago, on June 24, 1957, this proposal was first called to the attention of the Committee on Finance in a letter addressed to the chairman. These provisions were submitted to that committee for its consideration at that time, and several times thereafter.

I hold in my hands a file, which I believe the Senator from Delaware has seen, containing considerable correspondence between the chairman of the committee [Mr. BYRD] and myself, and between Mr. Colin F. Stam, chief of staff of the committee, and the chairman of the Finance Committee.

The Treasury has considered these provisions, and the Treasury, in fact, recommended the provisions and is thoroughly in accord with them.

The fact that the Committee on Finance did not choose to consider these provisions formally is not my responsibility. I have no power to make the Finance Committee do anything. I have submitted to it an opportunity, over a period a year or more, to take any action it chose to take on the subject. I certainly would not agree to delete these provisions. I believe them to be very sensible and proper provisions in the proposed legislation. Of course, the Senator is free to move to strike them from the bill, if he chooses to do so. However, there is jurisdiction in our committee because the subject is incidental to the main purpose of the proposed legislation, and that main purpose is thoroughly and completely within the jurisdiction of the Committee on Banking and Currency.

Mr. WILLIAMS. The chairman of the committee is correct to a certain point in that he did submit to the chairman of the Committee on Finance about a year and a half ago the recommendation for tax changes which were studied by the Committee on Finance at that time, and then the Committee on Finance passed its recommendations on to the chairman of the Committee on Banking and Currency.

I point out, however, that the provision incorporated in the pending bill, S. 3651, embracing section 308 is not the language sent to the Committee on Finance; nor does it accomplish the same purpose. It may be substantially the same, but there is a big difference in the word substantially, and there has been no review of the subject by the Committee on Finance. The last correspondence which the Senator from Arkansas had with the chairman of the Committee on Finance was in the form of a letter from the Chairman of that committee under date of April 21, 1958. That is this year, not last year. In that correspondence the chairman of the Committee on Finance enclosed for the information of the chairman of the Committee on Banking and Currency, a copy of the memorandum dated April 18, 1958, which had been prepared at the request of the chairman of the Committee on Finance by Mr. Stam, the chief of staff.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. WILLIAMS. In a moment I shall be glad to yield. I shall read Mr. Stam's letter. It reads as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, April 18, 1958.

Hon. HARRY F. BYRD,
United States Senate,
Washington, D. C.

DEAR SENATOR BYRD: Enclosed with this letter are two copies of a memorandum entitled "Explanation of Tax Provisions of S. 2160 and S. 3191." You will recall that Senator FULBRIGHT, in letters to you dated February 6 and March 13 and 27, 1958, requested an explanation of the tax provisions of these bills prior to the hearings to be held on these bills by the Committee on Banking and Currency.

S. 2160 and S. 3191 provide for the creation of a special class of corporations authorized to make loans to and to buy stock in small business concerns and to provide consulting and advisory services to small businesses on a fee basis. The tax provisions of both bills are substantially the same. In general, they would amend the Internal Revenue Code of 1954 to permit such corporations to be treated as regulated investment companies. However, the existing provisions of the code relating to the tax treatment of regulated investment companies would be modified substantially in the case of the corporations described in these bills. In general, these modifications would permit such corporations to accumulate substantial reserves with the payment of little or no corporate tax. Accordingly, the tax provisions of both bills do raise important questions of tax policy which the tax committees of Congress may wish to consider. The enclosed memorandum explains generally the effect of these tax provisions.

In addition to the considerations of tax policy raised by the tax provisions of these bills, I would also like to point out that it would be desirable to have the tax provisions of these bills studied further on a technical basis. These tax provisions are very complex and our preliminary review indicates that a number of technical problems may arise under them.

In my letter to you of June 24, 1957, relating to S. 2160, I discussed the legislative background of the Bank Holding Company Act of 1956. It was considered and reported by the Committee on Banking and Currency. In view of the fact that the legislation contained tax provisions, the Committee on Banking and Currency recommended that the Finance Committee of the Senate and the Ways and Means Committee of the House consider the tax aspects of the legislation, and this was done. Certain amendments were worked out by the staffs of the Joint Committee on Internal Revenue Taxation and the Treasury Department and the Committee on Banking and Currency which were approved by both the Committee on Finance and the Committee on Banking and Currency and made a part of the legislation. It might be desirable to adopt a similar approach with respect to these bills.

It may also be desirable to consider whether the tax provisions in these bills are such that the legislation of which they are a part should originate in the House of Representatives.

Sincerely yours,

COLIN F. STAM,
Chief of Staff.

That memorandum is addressed to the chairman of the Committee on Finance under date of April 18, 1958. It takes precedence over any correspondence of a year ago.

I also wish to call particular attention to the fact that the chief of staff of the Joint Committee on Internal Revenue Taxation recommended that the Committee on Finance study the proposal further and that it also take into consideration the question of whether the proposed legislation should originate in the House of Representatives. This was passed on to the chairman of the Committee on Banking and Currency, the Senator from Arkansas [Mr. FULBRIGHT], under date of April 21, together with the covering letter of the chairman of the Committee on Finance. In his letter the chairman of the Committee on Finance did not say he was giving up jurisdiction in the matter to the Committee on Banking and Currency.

I now refer to rule XXV of the standing rules of the Senate. I ask unanimous consent to have printed in the RECORD at this point that portion of the rule as it relates to the jurisdiction of the Committee on Banking and Currency, which is covered in paragraph (d); also the portion of the rule relating to the jurisdiction of the Committee on Finance, as it appears in paragraph (h).

There being no objection, the excerpts from the rules were ordered to be printed in the RECORD, as follows:

(d) Committee on Banking and Currency, to consist of 15 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banking and currency generally.
2. Financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule.
3. Deposit insurance.
4. Public and private housing.
5. Federal Reserve System.
6. Gold and silver, including the coinage thereof.
7. Issuance of notes and redemption thereof.
8. Valuation and revaluation of the dollar.
9. Control of prices of commodities, rents, or services.

(h) Committee on Finance, to consist of 15 Senators, to which committee shall be

referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Revenue measures generally.
2. The bonded debt of the United States.
3. The deposit of public moneys.
4. Customs, collection districts, and ports of entry and delivery.
5. Reciprocal trade agreements.
6. Transportation of dutiable goods.
7. Revenue measures relating to the insular possessions.
8. Tariffs and import quotas, and matters related thereto.
9. National social security.
10. Veterans' measures generally.
11. Pensions of all the wars of the United States, general and special.
12. Life insurance issued by the Government on account of service in the Armed Forces.
13. Compensation of veterans.

Mr. WILLIAMS. Mr. President, I call attention to the fact that, under paragraph (d) of Rule XXV, the Committee on Banking and Currency may not deal with any revenue-producing measure.

I also call attention to the new document which has recently been distributed to all Senators, entitle "Senate Procedure." I call attention to page 541 of that document. I read the first two paragraphs on that page, as follows:

"All bills for raising revenue shall originate in the House; but the Senate may propose or concur with amendments as on other bills."

The House on various occasions has returned to the Senate bills which the Senate had passed which the House held violated its prerogatives to originate revenue measures.

I next invite the attention of the Senate to the fact that in this bill the attempt is not made to amend an ordinary House bill; nor even a bill which deals with a revenue-raising provision; nor a bill which had been reported by the Committee on Finance; nor one which had been considered by the Committee on Ways and Means of the House. What is attempted is an amendment of the Revenue Code on a Senate bill which has been considered only by the Banking and Currency Committee. I shall make the point of order that the Committee on Banking and Currency has exceeded its jurisdiction, and this section of the bill should be stricken.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. WILLIAMS. I shall yield in a moment.

I point out, in support of the point of order, what the alternative would be. If the point of order is overruled and if it is held that the Committee on Banking and Currency has jurisdiction to consider such proposed legislation, then, by the same token, it would mean that the Senate would be ruling that the Senate has the right to originate revenue measures provided they have been reported by the Committee on Banking and Currency. We have never even recognized the right of the Committee on Finance to report such measures.

I also call attention to the fact that, if the point of order is overruled and if it is held that the Committee on Banking and Currency can report measures amending the Revenue Code, then it would open the door for that committee to consider and report and for the Senate to consider any kind of revenue measure. We would as a consequence find ourselves not in the midst of the consideration of a small-business bill but rather in the midst of modifying or passing major tax legislation which had not been considered either by the Committee on Finance or by the Ways and Means Committee. Under the circumstances we have no alternative but to strike the provision from the bill.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. CASE of South Dakota. Mr. President, the distinguished Senator from Delaware has raised a very important question. He has raised two questions, in fact. He has raised the question of a possible violation of the rule of the Senate with respect to the jurisdiction of the Committee on Banking and Currency in reporting the pending bill. He has also raised the constitutional question as to whether a bill carrying tax provisions must originate in the House of Representatives.

I should like to have the attention of the Parliamentarian while I am speaking on this point. The question first came up in 1955, when the Committee on Public Works was considering the interstate highway bill.

At that time I consulted the Parliamentarian as to whether the Committee on Public Works could report a bill which would raise revenue for the purpose of defraying the cost of the highway program, particularly the standard interstate program. The Parliamentarian called my attention to a decision by the Supreme Court in 1915 in the so-called Cotton Futures Act, which held that a bill which had originated in the Senate, but which had a revenue item added to it in the House of Representatives.

The Supreme Court held that that act was not valid, because they could not go behind the number on the bill. Even though in that instance the revenue feature was added by the House of Representatives, the Supreme Court held that the origin of the bill was determined by the number it carried. That bill carried a Senate number. So the Supreme Court invalidated the Cotton Futures Act because section 7 of the Constitution provides that all bills for raising revenue shall originate in the House of Representatives.

On the basis of that Supreme Court ruling, which the Parliamentarian called to my attention, the Committee on Public Works decided that it should not risk the validity of the highway bill by reporting revenue features. In fact, in 1956, when the question of a highway act again was before the Senate, because the House had failed to pass a highway bill in 1955, the Committee on Public Works decided it would defer to the action of the House, and wait until a bill could come over from the House carrying revenue features or carrying a House bill number, so that we would not run into danger. The Committee on Public Works did not want to risk invalidating the proposed legislation by placing a Senate number on a bill which included revenue features.

Under that decision of the Supreme Court, cited to me by the Parliamentarian, I cannot understand why members of the Committee on Banking and Currency would want to risk the fate of this bill by having it continue to carry tax provisions. The Senator from Delaware [Mr. WILLIAMS] has already pointed them out. For emphasis, I invite the committee's attention to the fact that section 308 specifically refers to the Internal Revenue Code of 1954 and then, in parenthesis, reads: "relating to deduction of losses." It amends section 165 of the Internal Revenue Code relating to the deduction of losses.

Further, in section 308, subparagraph (c), there is an amendment of section 243 of the Internal Revenue Code, "relating to dividends received by corporations."

In other words, the language of the bill before us very clearly changes the Revenue Code, by changing the provisions which raise revenue and the provisions relating to deductions. Certainly it must be considered a bill to raise revenue or a bill to change the code relating to revenue. Based on the opinions which the Parliamentarian gave in 1955 and 1956, I do not see how this bill, S. 3651, could carry those provisions and still be considered a valid bill.

I further invite the attention of the Chair and of the members of the committee to the fact that I believe, under the precedents of the Senate, when a constitutional question is involved, the question must be referred to the membership of the Senate for decision. It may be that because some Senators are not here today it would be unfortunate to raise what is in the nature of a constitutional question and to call for a vote by the membership of the Senate on it. It seems to me that the discreet thing to do would be for the committee to decide not to risk the constitutionality or the validity of the bill, but to withdraw this section, in order that the bill itself might not be sacrificed and found to be a nullity by the Supreme Court at a later date.

The PRESIDING OFFICER. The Chair feels that he has no other alternative than to hold that the Senator from South Dakota is correct in his statement that the Presiding Officer of the Senate, under the precedents of the Senate, instead of ruling upon the question of constitutionality is required to submit the question to the Senate. Therefore, the Chair cannot rule since, as the Chair understands it, the Senator is raising at least some question of constitutionality.

Mr. WILLIAMS. Mr. President, before I raise the question of constitutionality, my first point of order is that the committee exceeded its jurisdiction. It had no authority at all to report a bill dealing with the Revenue Code. Therefore, I make the point of order against that section of the bill on that basis.

The question is, Does the Senate Committee on Banking and Currency have jurisdiction to report measures relating to the Revenue Code? If they have such jurisdiction, other committees likewise

have the jurisdiction to report similar bills.

I confine my point of order, first, to that phase of the question.

Mr. FULBRIGHT. Mr. President, before I respond to the point of order, and in order to make the RECORD complete, I ask unanimous consent that a letter dated April 29, 1958, from me to the Senator from Virginia be printed at this point in the RECORD. In that letter, I accept the idea of consultation, and I suggest that we follow the same procedure that was followed in the Bank Holding Act, to which Mr. Stam referred in the previous letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON BANKING AND CURRENCY,
April 29, 1958.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Thank you for your letter of April 21, 1958, containing a very thorough explanation of the tax provisions in S. 2160 and S. 3191, two bills now being considered by the Committee on Banking and Currency. As you will recall, we have exchanged correspondence on these and similar bills several times since June of 1957.

The bills upon which the committee is now holding hearings are all concerned with providing long-term credit and equity financing to small-business concerns. At the present time, it would seem that S. 3643, an administration bill introduced by Senator THYE, and S. 3651, introduced by Senator JOHNSON, propose programs which have the best chance of favorable consideration by the committee. Both of these bills contain amendments to the Internal Revenue Code of 1954, and the amendments are identical. On April 24, 1958, Mr. Dan Throop Smith, deputy to the Secretary of the Treasury, endorsed the identical tax provisions of S. 3643 and S. 3651. It is my feeling, therefore, that any bill reported by the committee will embody the amendments recommended by the Treasury Department. For your further information, I am enclosing a copy of the statement made by Mr. Smith.

Although the tax features of these bills are incidental to the principal purposes of the legislation, they are, nevertheless, essential to fulfillment of these purposes. For this reason, I believe it is proper for this incidental revenue change to originate in the Senate. As suggested in the letters of June 24, 1957, and April 18, 1958, addressed to you by Mr. Colin F. Stam, these tax features could be considered in the same manner as were the tax features contained in the Bank Holding Company Act of 1956.

There is considerable interest in the programs contemplated by S. 3643 and S. 3651, and it is likely that the Committee on Banking and Currency will act upon these bills during the first week in May. I await your further suggestion for any cooperative action which you believe necessary. Your early reply will be appreciated.

Sincerely yours,
J. W. FULBRIGHT, *Chairman.*

Mr. FULBRIGHT. Mr. President, I have offered this letter to show that the Committee on Banking and Currency did everything it reasonably could to cooperate with the Committee on Finance and to obtain their prior approval. The fact that the Committee on Finance did not deem it proper to reply to the letter is beyond my control.

I ask unanimous consent also to have printed at this point in the RECORD a memorandum concerning the attitude of the Treasury Department, and an excerpt from the tstimony of Dan Throop Smith, Deputy to the Secretary of the Treasury, in which he endorses the principle substantially.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

TAX PROVISIONS OF S. 3651

The Treasury Department has advised that tax laws do not now provide for stock or debenture losses to be treated as ordinary loss deductions, rather than as capital loss deductions, as is proposed in S. 3651.

Such provisions, however, are consistent with recommendations the administration has made in its small-business tax proposals. In specific legislation, to carry out the administration's proposals (H. R. 12084 and H. R. 12085 as introduced by Messrs. MILLS and REED on April 22, 1958), it is provided in section 1 that loss realized on a stock investment by an original investor in a small business shall be treated as an ordinary loss rather than as a capital loss.

The administration feels that such favorable tax treatment is in order because of the importance of new and small businesses in our economy.

In testimony before the Small Business Subcommittee on April 24, Mr. Dan Throop Smith, Deputy to the Secretary of the Treasury, stated:

"These tax provisions contained both in S. 3651 and in S. 3643 are consistent with recommendations which the administration has made in connection with its small-business tax proposals and elsewhere. We endorse this tax approach. The provisions should be helpful in increasing the amount of funds available to the proposed investment companies and they are consistent with other tax recommendations and the general corporate tax law." (Hearings, p. 170.)

Mr. FULBRIGHT. Mr. President, in regard to the point of order, it is my position and that of the committee that the revenue provision of the bill is strictly of a subsidiary and incidental nature to the main purpose of the bill itself; that this is a very common practice; and that the point of order is invalid.

The PRESIDING OFFICER. The Chair has been informed by the Parliamentarian that in the case of *Millard* v. *Roberts* (202 U. S. 429) decided in 1906, the Supreme Court of the United States made a decision which has a bearing on the present situation.

In that case, a bill which had originated in the Senate provided for the construction of a Union Station in the District of Columbia, and contained a small incidental tax provision. The constitutionality of the bill was attacked on the ground that revenue bills must originate in the House.

The Court, after citing the case of *Twin City Bank* v. *Nebeker* (167 U. S. 203), which quoted Mr. Justice Story as holding that "revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue," said, "There was no purpose, by the act or any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

That situation applies to the bill in question. The Committee on Banking and Currency has jurisdiction over the pending bill and may report some provisions incidental to carrying out the main purposes of the bill.

There are numerous precedents for the establishment of the Small Business Administration and the method of its financing, against which no point of order was made when bills establishing those corporations or administrations similar in their financing were under consideration in the Senate.

This is the opinion of the Parliamentarian as given to the Chair. The Chair makes it his own opinion and, therefore, the Chair overrules the point of order.

Mr. WILLIAMS. I now make the point of order on the ground that it is not constitutional for the Senate to originate revenue measures. Certainly this point of order should be sustained. I suggest the absence of a quorum.

The clerk proceeded to call the roll.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Is a motion to recess in order?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that a motion to recess is not in order. A motion to adjourn is in order.

The Secretary will proceed with the call of the roll.

The legislative clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

Aiken	Fulbright	McNamara
Allott	Goldwater	Monroney
Anderson	Gore	Morse
Barrett	Green	Mundt
Beall	Hayden	Murray
Bennett	Hennings	Neuberger
Bible	Hickenlooper	Pastore
Bricker	Hill	Payne
Butler	Hruska	Potter
Byrd	Humphrey	Proxmire
Capehart	Ives	Revercomb
Carlson	Jackson	Robertson
Carroll	Javits	Russell
Case, N. J.	Jenner	Saltonstall
Case, S. Dak.	Johnson, Tex.	Schoeppel
Chavez	Jordan	Smathers
Church	Kefauver	Smith, Maine
Clark	Kennedy	Smith, N. J.
Cotton	Knowland	Sparkman
Curtis	Kuchel	Stennis
Dirksen	Langer	Symington
Douglas	Lausche	Talmadge
Dworshak	Long	Thurmond
Eastland	Magnuson	Thye
Ellender	Malone	Watkins
Ervin	Mansfield	Wiley
Flanders	Martin, Pa.	Williams
Frear	McClellan	Young

Mr. MANSFIELD. I announce that the Senator from Florida [Mr. HOLLAND], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES], the Senators from Connecticut [Mr. BUSH and Mr. PURTELL], and the Senator from West Virginia [Mr. HOBLITZELL] are necessarily absent.

The Senators from Kentucky [Mr. COOPER and Mr. MORTON] are absent on official business.

The PRESIDING OFFICER. A quorum is present. The Senator from Delaware has raised a point of order that the bill is not constitutional in its tax provision at page 50.

Mr. CHAVEZ. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Delaware has raised a point of order. Does the Senator from Delaware wish to make an observation?

Mr. WILLIAMS. I understand the Committee on Banking and Currency has dceided that it will withdraw the disputed section of the bill, and strike it out. With that understanding I withdraw my point of order.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. CAPEHART. As I understand, the Senator from Delaware is withdrawing his point of order, with the understanding that the complete section will be taken out.

Mr. WILLIAMS. That is correct.

Mr. CAPEHART. That it will be taken out of the bill. I understand that an effort will be made to attach that section of the bill to a tax bill which is now before the Committee on Finance. I believe the chairman of the Committee on Finance has agreed to give consideration to it.

Mr. BYRD. At the first appropriate meeting of the Committee on Finance we will give consideration to such an amendment.

Mr. WILLIAMS. Mr. President, I withdraw the point of order.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a paragraph from the Constitution of the United States, annotated, page 102, "The Legislative Process," and excerpts from cases cited in that paragraph.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM ANNOTATION TO ARTICLE I, SECTION 7, CLAUSE 1 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA

THE LEGISLATIVE PROCESS

Revenue bills

Only bills to levy taxes in the strict sense of the word are comprehended by the phrase "all bills for raising revenue"; bills for other purposes, which incidentally create revenue, are not included.[1] An act providing a national currency secured by a pledge of bonds of the United States, which, "in the furtherance of that object, and also to meet the expenses attending the execution of the act," imposed a tax on the circulating notes of national banks was held not to be a revenue measure which must originate in the House of Representatives.[2] Neither was a bill which provided that the District of Columbia should raise by taxation and pay to designated railroad companies a specified sum for the elimination of grade crossings and the construction of a union railway station.[3] The substitution of a corporation tax for an inheritance tax,[4] and the addition of a section imposing an excise tax upon the use of foreign built pleasure yachts,[5] have been held to be within the Senate's constitutional power to propose amendments.

EXCERPT FROM THE OPINION OF THE COURT IN THE CASE OF TWIN CITY BANK *v.* NEBEKER ((1897) 167 U. S. 196, 202–3).

The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue. (1 Story on Const. sec. 880). The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States, and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

EXCERPT FROM THE OPINION OF THE COURT, IN THE CASE OF MILLARD *v.* ROBERTS (1906) 202 U. S. 429, 436–7

The first contention of appellant is that the acts of Congress are revenue measures, and therefore should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of *Twin City Bank* v. *Nebeker* (167 U. S. 196), need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to be "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, "that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue." (1 Story on Const. sec. 880.) And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this court saying:

"The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act.

Mr. FULBRIGHT. Mr. President, I regret that this action had to be taken. I do not see how the Committee on Finance can consider the tax provision relating to the investment companies before the bill itself has become law.

I think what is suggested is the only practical way to proceed, and I recommend it to the author of the bill and to the other body: that in the House itself this provision be reinstated.

The only answer I can see is that the House itself be requested to insert the provision in the bill when it gets to the House, so as to take care of the constitutional question.

I myself think the Parliamentarian was quite right in his ruling that this provision is perfectly proper in the bill. I do not wish for a moment to accept the proposition that this is a revenue provision within the meaning of the Constitution. It is strictly incidental to a bill which the Senate can originate.

The present action is taken, from my point of view, not because of any defect in the bill or any disagreement with the views of the Parliamentarian; it is done strictly because of expediency, in the interest of trying to get action on the proposed legislation at the moment.

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that if the House should reinsert this provision in an identical bill, that would not resolve the constitutional problem.

Mr. FULBRIGHT. The House could take the Senate bill and include the provision, or the House could originate the bill. A bill comparable to this is already before the House. It is a House bill. But what I meant was that the provision would originate in the House.

However, I do not think the provision is in violation of the Constitution as it appears in the bill now before the Senate. I do not admit that it is. It is for entirely different reasons that I do not object at this time to the withdrawal of this provision from the bill.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. CLARK. I associate myself with the remarks of the Senator from Arkansas, with whom I am in complete agreement.

The PRESIDING OFFICER. Will the Senator from Arkansas inform the Chair how much of the language he wishes to have stricken?

Mr. FULBRIGHT. All the provisions relating to taxes.

Mr. CAPEHART. Mr. President, a parliamentary inquiry.

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[1] I Story, Constitution, sec. 880.

[2] *Twin City National Bank* v. *Nebeker* (167 U. S. 196 (1897)).

[3] *Millard* v. *Roberts* (202 U. S. 429 (1906)).

[4] *Flint* v. *Stone Tracy Co.* (220 U. S. 107, 143 (1911)).

[5] *Rainey* v. *United States* (232 U. S. 310 (1914)).

The PRESIDING OFFICER. The Senator from Indiana will state it.

Mr. CAPEHART. Has the motion been made to strike section 308?

The PRESIDING OFFICER. That matter is under consideration at the present time.

Mr. CAPEHART. I move that section 308 be stricken.

Mr. MORSE. Mr. President, a point of order. The Senator from Indiana does not have the floor.

Mr. FULBRIGHT. All the tax provisions which are involved in this matter are included in section 308, beginning at page 50, and continuing to section 309. That is the part which, as the manager of the bill, I ask to have stricken.

Mr. CLARK. And that the subsequent sections be renumbered.

Mr. FULBRIGHT. Yes.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. MORSE. I wish to ask the Senator from Arkansas two or three questions. I think we should make a very clear record of this matter, so that it cannot be used as a precedent in the future. Sooner or later we shall have to face up to a test of these constitutional questions.

My first question is, from what committee does the bill come?

Mr. FULBRIGHT. The bill comes from the Committee on Banking and Currency.

Mr. MORSE. Do I correctly understand that it is proposed to transfer this particular section to the Committee on Finance?

Mr. FULBRIGHT. It has been suggested that this section be considered by the Committee on Finance. Two questions were raised. The first question was as to the jurisdiction of the committee: whether under the rules of the Senate the provision should have come from the Committee on Finance. That point of order was overruled by the Chair. The Committee on Banking and Currency has jurisdiction to consider the matter.

A further question was raised as to the constitutionality of the provision: whether under the Constitution such a provision must originate in the House. It is my view, and also, I think, the view of the Parliamentarian, based on the precedents I have before me, that this tax feature is strictly incidental to the main purpose of the bill, which is clearly within the jurisdiction of the Senate and of the Committee on Banking and Currency.

This is not a revenue-raising bill within the meaning of the language of the Constitution. I have before me 2 cases in the Supreme Court: One, Millard against Roberts; the other, Twin City Bank against Nebeker, and also a digest of the problem. All of the cases, I think, clearly support the view that the tax provision is incidental to the principal purpose of the bill, which is the creation of the credit institutions.

But I go further. I have been informed that if the Senate passes the bill with this provision in it, it is likely that the Speaker of the House of Representatives will refuse to accept the bill. That is not a constitutional matter; it is not a legal matter. That is a power, I presume, which the Speaker of the House possesses as the Speaker of the House. I have no comment on that. I have no way to override him. Even though the precedents are in our favor, of what avail will it be to do a completely futile thing?

So I have said I will agree to the motion to strike, or that I will take out that provision, and will rely on the House to reinsert the provision in the House. That is the situation, as I understand it.

Mr. MORSE. Undoubtedly the debate of this afternoon will be referred to many times in the years ahead. Therefore, for the purpose of the legislative record, I wish to review the matter by asking two questions:

First, is my understanding correct that the Senator from Arkansas, chairman of the Committee on Banking and Currency, is not making his motion to strike from the bill the language in question because of any question in his mind about the jurisdiction of the Committee on Banking and Currency over the subject matter?

Mr. FULBRIGHT. That is correct.

Mr. MORSE. Second, is my understanding correct that the Senator from Arkansas, chairman of the Committee on Banking and Currency, is not making his motion to strike because of any doubt in his mind about the authority of the Committee on Banking and Currency to include this so-called tax matter in the bill, because the tax matter is only incidental to the purpose and the objective of the bill, but that he is making his motion to strike because he has been advised that if the provision is added to a tax bill now before the Committee on Finance, and which has already come over from the House, the matter will then be in a position for legislative action both by the House and Senate?

Mr. FULBRIGHT. I would modify the last point to this extent. I am a little doubtful about including this provision in a bill before the Committee on Finance before the bill or the instrumentality to which it applies has ever been passed. We would be in a most peculiar position then.

What I have in mind to meet the objection which was made is that this provision could be inserted in a House bill which accomplishes the same thing the Senate bill proposes. I hope that the bill, comparable to the Senate bill, which was introduced in the House, can come through the House Committee on Banking and Currency with this provision in it.

I wrote to the chairman of the Committee on Finance with regard to this matter almost a year ago. I wrote four different times, bringing the matter to the attention of the chairman of that committee. The last time I wrote was on April 29, 1958. I submitted to him the precise language that is carried in the pending bill and asked him if he had any suggestions whatever as to consultation or any objections to our including it in the bill. In other words, I invited his cooperation on the bill. I have not yet received an answer to that letter. That is the way the matter stands.

I do not approved of this procedure, but I am bowing to what I consider to be the necessities of the case with respect to having the bill passed at all.

Mr. MORSE. I thank the Senator from Arkansas for making the RECORD so clear in regard to these items of precedent, to which he referred: first, the jurisdiction of the Committee on Banking and Currency; second, the question on constitutionality, setting forth the authorities which the Senator from Arkansas has inserted in the RECORD, to the effect that it was within the constitutional prerogative of the Senate Committee on Banking and Currency to have included this language in a Banking and Currency Committee bill.

That is as far as the Senator from Arkansas can go, but it is not as far as the Senate can go. Sooner or later we must come to grips with the real issue which has been raised this afternoon. I am ready to do it now or at any other time. I am opposed to one-man rule, wherever I find it.

We are faced with the question of whether the Speaker of the House of Representatives will determine what action will be taken by the Senate, or whether the Senate will determine that for itself. The question of whether this matter falls within the prerogatives of the Senate must be determined sooner or later, and I am perfectly willing to have it determined right now. If it is constitutional for the Senate to take such action, then I, for one, do not intend to accept the dictates of the Speaker of the House; but, rather, I intend to fight out that question with him until we protect and preserve the rights of the Senate in this matter.

Mr. WILLIAMS. Mr. President, before the vote is taken, I wish the RECORD to show clearly, so that there will be no misunderstanding, that my point of order was withdrawn only on the basis that the chairman of the committee would move to strike out this section of the bill; and I withdrew my point of order only when he agreed to make such a motion.

I emphasize that my point of order was not withdrawn on the basis that I had changed my opinion that the Banking and Currency Committee had no right to report a measure dealing with the Internal Revenue Code. I believe that should be clear. It is true that the House of Representatives is studying this proposal, as I stated previously; and I believe that a House bill in this field will soon be considered. If so, when it comes to the Senate, it will be referred to and considered by the Senate Finance Committee.

This matter can be considered by the Senate Finance Committee as an amendment to any House bill and the committee has promised to give the matter careful consideration.

But I wish it clearly understood that my point of order was not withdrawn on the basis that I had changed my opinion as to the validity of the point of order. I have not changed it, because in my

opinion the Banking and Currency Committee had no authority to report a Senate bill which would amend the Internal Revenue Code.

Mr. KNOWLAND. Mr. President, will the Senator from Delaware yield to me?

Mr. WILLIAMS. I yield.

Mr. KNOWLAND. I wish to say, for the information of the Senate, and to confirm what the Senator from Delaware has said, that he withdrew his point of order at my request and at the request of the distinguished majority leader and other Senators, with the understanding that a motion to strike this section from the bill would be made.

Mr. WILLIAMS. That is correct.

Mr. KNOWLAND. So I believe that RECORD should be clear.

I also understand that a motion to strike the section from the bill has now been made.

Mr. WILLIAMS. That is correct; and I want it to be clearly understood that this section is being stricken from the bill, and will be considered separately by the appropriate committee.

Mr. KNOWLAND. Do I correctly understand that the matter will then be considered by the Finance Committee, and can properly be considered by it as an amendment to a revenue bill which already has come to the Senate from the House of Representatives?

Mr. WILLIAMS. That is correct. It can be offered as an amendment to any House bill which deals with amendments to the Revenue Code.

Mr. CLARK. As chairman of the subcommittee of the Banking and Currency Committee, I should like to associate myself with the remarks which have been made by the Senator from Arkansas [Mr. FULBRIGHT], with which I am in full agreement.

I have sympathy for the point of view of the Senator from Oregon; but in my opinion it is more important to enact legislation which will be of help to small business that it is to precipitate a dispute between the House of Representatives and the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas [Mr. FULBRIGHT] to strike section 308 from the bill.

Mr. JOHNSON of Texas. Mr. President, I should like to confirm what the distinguished minority leader has said. I had hoped that the Senate could pass this measure with section 308 in it. I believe section 308 is essential to the successful operation of this proposed law. I am not unaware of the constitutional provision that all bills for raising revenue shall originate in the House of Representatives. I am of the further opinion that the authorities in the House of Representatives would hold that section 308 would come within that constitutional provision.

I have no desire to circumvent or shortcut any standing committee of this body. I felt that the Banking and Currency Committee had given sufficient notice, and had requested suggestions a sufficient number of times, so that if the question of jurisdiction was to be invoked, the committee would have been so informed.

That question has been raised here. The distinguished chairman of the committee and other responsible Members on both sides of the aisle assure me that they feel deeply that they should give consideration to this section before it is acted on by the Senate. Therefore, I believe they should have an opportunity to do so.

Mr. President, in line with that thought, I join the minority leader in asking the distinguished chairman of the Banking and Currency Committee and the distinguished chairman of the subcommittee to raise no serious objection to the striking out of section 308, with the clear and definite understanding that the Finance Committee will promptly consider that section. We have been informed that the committee can properly consider it, and can report it favorably, even though this bill has not yet become law; and we hope to be able to receive the committee's recommendations within a week or 10 days, at the most.

Therefore, Mr. President, reluctant as I am to see this section stricken from the bill, I am mush more interested in seeing that orderly procedures are followed, that jurisdictions are protected and that committees which desire to give prompt attention to a matter shall have the opportunity.

So I hope the section will be stricken from the bill, and that the bill then will be promptly passed.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas [Mr. FULBRIGHT] to strike out section 308, beginning in line 10, on page 50, and down to and including line 17, on page 52.

The motion was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I rise to state that the bill represents a long-term need for American small business in the private-enterprise field. For more than 15 years it has been recognized that there has been a desperate need of equity capital for small-business enterprises.

As has been stated during the debate, the present tax laws have, because of the Government's revenue needs, made it almost impossible for substantial numbers of small-business enterprises to accumulate from their earned profits the necessary capital in order to be able to expand and to develop their business enterprises.

A similar proposal was advanced in 1950. I remember that at that time I was privileged to be a cosponsor of that bill.

Each year there have been a number of proposals, before both Houses of the Congress, directed toward the objective of providing adequate equity capital for independent business enterprises.

This is the first time we have been able to reach the point where I hope favorable action is about to be taken by the Senate on a proposal of this type.

I look forward to the same kind of speedy action in the other House.

During the debate it was stated that the bill does not provide all that we would like to have it provide. I agree. But this bill is a respectable and responsible beginning. I believe that before we really shall protect the legitimate interests of small business in the American economy there will have to be two further developments, as follows:

First. Very effective and rigid enforcement of the antitrust laws, together with the protections for independent business that are afforded by the Robinson-Patman Act and the Federal Trade Commission as an enforcement agency. Surely the Robinson-Patman Act and the Federal Trade Commission need to be energized and made as fully effective as possible.

Second. We definitely need some tax adjustments relative to the small-business aspects of our economy. Bills along these lines have been introduced, and I hope they will be acted upon.

I support the pending bill; and I desire to commend the chairman of the Banking and Currency Committee, the chairman of the subcommittee, and also the majority leader, who introduced the bill and permitted me to be a cosponsor of it.

Mr. JAVITS. Mr. President, as a member of the Select Committee on Small Business, I am in part responsible for the pending measure, and I am very pleased to see it brought before the Senate.

Following the statement the Senator from Minnesota has made, I wish to state that the four problems of small business are as follows:

First, financing.

Next, the need for tax consideration—which I urgently hope will be received. It has been recommended by the administration, and I think such consideration is one of the real contributions which can be made to the problems which confront activities in the small-business field.

I should like to add two other points which should be considered in connection with the problems of small business:

The need for research and development in the most cooperative way, which is absolutely essential if small business is to hold its own in modern technology.

Last, but by no means least, the antitrust problems of small business not only need enforcement of the antitrust laws in the same way that they are enforced in the United States against monopoly and big business, but they also need a termination of the enforcement which thus far has prevailed in the case of small business, so that small businesses may have some of the benefits which large businesses enjoy in this particular field.

I think we need a positive and affirmative approach to the antitrust laws for the benefit of small business, if we really want to cope with their problems and recognize small business as the vertebrae of the American free-enterprise system.

Finally, I think it is important to note that small business is badly hurt right now, and the recession is having a very adverse impact on it.

Therefore, I should like to join my colleagues who have urged expeditious action on this very urgent and needed

legislation. I join in the expectation that the bill will have speedy consideration and will be approved in the other body.

Mr. CAPEHART. Mr. President, I ask unanimous consent that there may be printed in the RECORD the individual views of myself, the Senator from Ohio [Mr. BRICKER], and the Senator from Utah [Mr. BENNETT], which were printed in the report accompanying the bill.

I do not think this is a good bill. I would have much preferred that the lending capacity of the Small Business Administration be increased, rather than give it the right to acquire equity. I made that statement in committee. I make it again now.

There being no objection, the individual views were ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF MR. CAPEHART, MR. BRICKER, AND MR. BENNETT

The proposed Small Business Investment Act would commit the Federal Government to a new policy of attempting to satisfy the capital needs of the more than 4 million small-business concerns in our country. To accomplish this impossible task, primary reliance would be placed on a new national banking system consisting of federally chartered small-business investment companies. The responsibility for promoting the establishment of these unique companies would rest with the Small Business Administration.

Under the bill, any 10 persons could form an investment company with the Government supplying one-half of the required $300,000 capital. In addition, these companies would be eligible for long-term loans amounting to 50 percent of their capital and surplus, that is, $150,000. Thus, the Government would provide $2 for every $1 of private funds invested. To make the inducement even more attractive, these companies would be granted certain income-tax concessions under the Internal Revenue Code.

There is no justification for using the taxpayers' money to finance this venture by the Federal Government into private business. The testimony received by the committee suggests that there is a gap in the long-term-financing needs of small business. But there is no agreement as to the extent of the gap—no one really knows, or whether the gap can be filled by private lenders without resort, to Federal funds. Furthermore, no cogent reason has been advanced for the Federal Government to suddenly rush in to try to fill this gap.

The Board of Governors of the Federal Reserve System is currently making a study of the financing needs of small business, and the first two parts of the study have been completed. It is unfortunate that the majority of the committee could not wait until the third part of the study has been concluded before approving this legislation. As William McChesney Martin, Chairman of the Federal Reserve Board, has stated, the third part of the study would be a direct survey of the financial structure and experience of smaller businesses, developed through a national sampling approach.

The completed study will be available next year and would provide valuable additional information. We should have all the facts before starting a new program which could well be the first step toward the socialization of an important segment of our free enterprise system.

The bill is not only wrong in principle, but it fails to provide any real help to small-business concerns. The fact that there has been very little, if any, correspondence from small-business men in support of this program would seem to bear this out. The volume of mail and personal contacts indicate that the small-business concerns are far more interested in extending the present loan programs of the Small Business Administration which have already proven their value. This bill appears to be a case where Government officials in Washington have determined what is best for small business and now will try to convince the small-business concerns that the new program is needed.

The bill authorizes the subsidized federally chartered investment companies to provide capital through the purchase of debentures issued by the small-business concerns. To be eligible for purchase, these debentures must be convertible into the stock of the issuing concern at a price determined at the time the debentures are issued. The thought being that if the business is successful, the bonds will be converted into stock, thus giving the investment companies a share in the profits of the business. The Small Business Administration would fix the interest rate and other terms of the convertible debentures purchased by the investment companies. In order to sell its debentures, the small-business concern would be required to purchase stock in the investment company in an amount equal to not less than 2 percent, nor more than 5 percent of the amount of capital advanced, as may be specified by the SBA. The small-business concern may also be required to refinance all of its outstanding indebtedness with the investment company and to agree that it will not thereafter incur any indebtedness without the approval of the company.

The reason most small-business men do not issue common stocks to obtain additional equity capital is the reluctance on their part to share the control of the business with outsiders. This would be particularly true where a semigovernmental company or the Government itself would be a possible shareholder.

In addition to this basic reluctance to seek outside equity capital, another obstacle to small-business participation would be the necessity for the business concern to deal with both the investment company on the local level and the Small Business Administration in Washington in order to sell its debentures. The inevitable delays that would result from this cumbersome organizational setup would be so time-consuming as to discourage most applicants for assistance. Therefore, it appears extremely likely that only a very few small-business concerns would desire to take advantage of this feature of the program.

The bill would also authorize the investment companies to make 30-year loans to small businesses. This provision ignores the existence of the present SBA program authorizing 10-year loans for the same purpose. Certainly, a small business that is not eligible for the present 10-year loans would not be eligible for the new 30-year loans. It makes no economic sense for the Government to subsidize a new loan program to compete with an existing loan program.

There are a number of other provisions of the bill that should be examined carefully. The statement of policy contains weak language to the effect that the act shall be so administered that financial assistance rendered shall not result in a substantial increase in unemployment in any area of the country. The purpose of this language is purported to be to guard against pirating of industry, but the statement is so vague as to be almost meaningless. The bill should clearly state that financial aid shall not be given to assist an industry in moving from one part of the country to another.

In this connection, it should also be noted that there is no prohibition against providing Government funds even though financial assistance can be secured from private sources on reasonable terms. Government funds should not be used to compete with private lenders. It seems strange that the proponents of this new program would object to such a restriction if, as they say, private funds are not available to fill the gap in long-term financing.

A total of $250 million would be authorized to finance the new program. This appears to be an excessive amount of money to inaugurate a new program that the Chairman of the Federal Reserve Board suggested "should be approached experimentally and on a small scale." But, even worse, the proponents of the bill apparently are not confident that the program will stand on its own merits, for the $250 million is authorized to be borrowed directly from the Treasury Department, bypassing the usual appropriations' procedures. Thus, the Committees on Appropriations would not have an opportunity to review the program and obtain a justification by the agency for the expenditure of these funds. This experimental nature of the program would seem to make a periodic congressional review imperative. This procedure is, of course, at variance with the other SBA-loan programs which are financed by regular appropriations. This bill should be defeated. In sum, it would place the Federal Government in the position of undertaking an impossible assignment with unworkable tools. It would be a disservice to the small-business concerns of our country to present this program as an effective means to meet their long-term financing problems. It would be more realistic and practical for the Congress to strengthen the existing programs of the Small Business Administration rather than to perpetrate this new intrusion by the Federal Government into private business.

HOMER E. CAPEHART.
JOHN W. BRICKER.
WALLACE F. BENNETT.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the body of the RECORD an article from the American Banker of May 29, 1958, entitled "Small Business Aid Measure Seen Clearing Senate; Meets ABA Specifications."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS CAPITAL AID MEASURE SEEN CLEARING SENATE; MEETS ABA SPECIFICATIONS

WASHINGTON, May 28.—The Small Business Capital Aid bill, as reported by the Senate Banking Committee, generally meets the specifications of the American Bankers Association and is expected to clear the Senate with little opposition.

Meanwhile, the House Banking Committee is preparing to begin executive sessions next week to consider a series of bills taken up during the unemployment hearings. One of these is the Patman-Johnson Small Business Investment bill, slated for consideration after the Community Facilities measure.

The Senate bill cleared yesterday by the committee follows the two cardinal points made in testimony in April by Carl M. Flora, vice president of the First Wisconsin National Bank of Milwaukee, and chairman of the ABA Small Business Credit Commission. These are:

1. Avoid setting up a new agency to administer the new investment program, entrusting the job to the Federal Reserve System, or alternatively to the Small Business Administration. The committee chose the latter.

2. The committee also complied with the recommendation for flexible interest rates. The bill provides that the Small Business Administration shall set the rates, which leaves them not entirely free as the ABA would have preferred, but avoids fixing them by law as the original Fulbright bill would have done.

TREASURY TO SUPPLY REVOLVING FUND

The Treasury is directed by the bill to furnish up to $250 million in a revolving fund to make loans to newly chartered small-business investment companies and to State development companies.

To start business, the investment companies would need $300,000 of paid-in capital and surplus. Up to half of this would be provided permissively by the Small Business Administration, but the concept is that most of the companies' funds would come from private sources. The stock would be available for purchase by individuals, partnerships, corporations, and financial institutions such as insurance companies and banks which are members of the Federal Reserve or FDIC.

The committee varied from the course set by the ABA in one significant respect.

The ABA design would make this a 3-year program, the investment companies to be rechartered on a permanent basis by the States. The committee, however, altered this to limit the chartering of new investment companies to 3 years, but did not require conversion to State charters.

TREND TOWARD FEDERAL CHARTERS

Actually, under the tax-benefit provisions of the bill, the trend would be toward rather than from Federal charters, and the bill provides that the State development companies may convert to Federal charters in order to obtain the tax privileges.

The Senate bill has little resemblance to the Patman-Johnson measure, by which the starting source of funds would be a drain on the surplus of the Federal Reserve System, amounting to the unused allotment of $27.5 million in the section 13 (b) reserve and levies on the regional banks totaling $100 million.

The Senate bill repeals section 13 (b) entirely, and directs that the $27.5 million be established by the Treasury as a special fund from which the Small Business Administrator can make grants to colleges, States and other organizaitons for research into business problems and counseling of small-business firms.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the third reading and engrossment of the bill.

The bill (S. 3651) was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CLARK. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. CLARK subsequently said: Mr. President, there are times, even on the floor of the Senate, when silence is golden. I had intended to make a major speech today in support of S. 3651, which has been passed by the Senate. It became clear, as the day passed, that the parliamentary situation was such that the speech might delay passage of the bill and would, therefore, be unwise. So I refrained from making the speech, but I should like the RECORD to show that S. 3651 was supported by me and that I voted in favor of it in the voice vote which was taken.

Mr. President, I ask unanimous consent that S. 3651, as amended, may be printed, so that it may be distributed to the many people who I am sure will want to have it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania? The Chair hears none, and it is so ordered.

Mr. NEUBERGER subsequently said: Mr. President, I should like to have the RECORD show that I, too, was among the Members of the Senate who supported S. 3651, to make more readily available capital and long-term credit to small-business concerns.

Like the junior Senator from Pennsylvania [Mr. CLARK], who spoke briefly earlier on this subject, I also refrained from any discussion during the consideration of the bill, so that the bill might be passed more expeditiously. However, I want the RECORD to show that I am one of the Senators from a State which is extremely hard hit by the recession in the lumber industry. This has been caused by the tight-money program, which has had so adverse an impact in the past 4 years on residential construction.

Because 75 percent of the output of our Oregon sawmills and lumber yards goes into the construction of homes, any great reduction or diminution in residential home construction has an adverse and unfavorable impact on the Oregon business climate. This unfortunately has resulted in a distressingly large number of small-business failures in the State of Oregon, my native State.

I was privileged to be among those who supported S. 3651, which we hope at least to some degree will ameliorate the difficulty which so many small-business concerns face in the retaining of funds for legitimate expansion and improvement of their business establishments.

DEPARTMENT OF COMMERCE APPROPRIATIONS, 1959

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of H. R. 12540, Order No. 1688.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 12540) making appropriations for the Department of Commerce and related agencies for the fiscal year ending June 30, 1959, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. JOHNSON of Texas. Mr. President, I do not expect to have this bill discussed today. The Senator from Florida [Mr. HOLLAND] will present it tomorrow, but I did want the bill before the Senate.

LIMITATION OF APPELLATE JURISDICTION OF THE SUPREME COURT

Mr. BUTLER. Mr. President, the president of the North Carolina Bar Association, Mr. William W. Taylor, Jr., who is of course one of the outstanding lawyers of the State of North Carolina, has written me enclosing a copy of a letter expressing his views with regard to the bill S. 2646. Because of the imminence of consideration of this bill by the Senate, and the great interest which many of my colleagues have expressed in it, I ask unanimous consent that Mr. Taylor's letter to me, together with the text of the letter which he enclosed, may be printed in the RECORD at this point as a part of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NORTH CAROLINA BAR ASSOCIATION,
Warrenton, N. C., May 20, 1958.

Hon. JOHN MARSHALL BUTLER,
United States Senate,
Washington, D. C.

DEAR SENATOR BUTLER: I enclose herewith a copy of a letter which I have written to Senator JAVITS in reply to a letter from him in which he requested a statement of my views on the Jenner-Butler bill. You are free to use this letter in any way you see fit, if you feel that it will contribute anything to the successful passage of the above bill.

Sincerely yours,

WM. W. TAYLOR, Jr.

MAY 26, 1958.

WILLIAM W. TAYLOR, Jr., Esq.,
President, North Carolina Bar Association, Warrenton, N. C.

DEAR MR. TAYLOR: It was thoughtful of you to share with me a copy of your comments to Senator JAVITS in regard to the Jenner-Butler bill. Your support of the objective of this bill is most encouraging, and I hope that the Congress during the present session will take action in this important respect.

With best wishes and warmest personal regards, I am,

Cordially,

JOHN MARSHALL BUTLER,
United States Senator.

NORTH CAROLINA BAR ASSOCIATION,
May 15, 1958.

Hon. JACOB K. JAVITS,
United States Senate,
Washington, D. C.

DEAR SENATOR JAVITS: This is in reply to your letter of May 9, addressed to me as president of the North Carolina Bar Association. In replying to your letter I do not propose to speak for the North Carolina Bar Association, and am expressing only my individual views. However, I am of the opinion that they are concurred in by an overwhelming majority of the lawyers in North Carolina.

I disagree most heartily with the views expressed by you. In view of the Supreme Court's apparent determination to set itself up as a third legislative chamber, I feel very strongly that, unless some measures are enacted which will curb the Court, our system of constitutional government under law as we have known it in this country will not continue long. It has always been my understanding of the Constitution of the United States that legislative changes were the function of Congress and that the Supreme Court's duty was to pass on legal questions, not to attempt to impress the individual philosophies of the several members of the Court upon the laws of this country.

S. 3651

85TH CONGRESS
2D SESSION

S. 3651

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1958

Referred to the Committee on Banking and Currency

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—SHORT TITLE, STATEMENT OF PUR-
4 POSE, AND DEFINITIONS

5 SHORT TITLE

6 SEC. 101. This Act, divided into titles and sections
7 according to the following table of contents, may be cited as
8 the "Small Business Investment Act of 1958".

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision of funds.
Sec. 203. Purposes of revolving fund.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this Act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 601. Repeal of section 13b of Federal Reserve Act.
Sec. 602. Fund for management counseling.

TITLE VII—CRIMINAL PENALTIES

1 STATEMENT OF POLICY

2 SEC. 102. It is declared to be the policy of the Congress
3 and the purpose of this Act to improve and stimulate the
4 national economy in general and the small-business segment
5 thereof in particular by establishing a program to stimulate
6 and supplement the flow of private equity capital and long-
7 term loan funds which small-business concerns need for the

1 sound financing of their business operations and for their
2 growth, expansion, and modernization, and which are not
3 available in adequate supply: *Provided, however,* That this
4 policy shall be carried out in such manner as to insure the
5 maximum participation of private financing sources.

6 It is the intention of the Congress that the provisions
7 of this Act shall be so administered that any financial as-
8 sistance provided hereunder shall not result in a substantial
9 increase of unemployment in any area of the country.

10 DEFINITIONS

11 SEC. 103. (a) As used in this Act—

12 (1) the term "Administration" means the Small
13 Business Administration;

14 (2) the term "Administrator" means the Adminis-
15 trator of the Small Business Administration;

16 (3) the term "company" means a small business
17 investment company organized as provided in title III;

18 (4) the term "United States" means the several
19 States, the Territories of Alaska and Hawaii, the Dis-
20 trict of Columbia, and the Commonwealth of Puerto
21 Rico;

22 (5) the term "small-business concern" shall have
23 the same meaning as in the Small Business Act of 1953;

1 (6) the term "investment companies" means in-
2 vestment companies as defined in section 3 of the In-
3 vestment Company Act of 1940 which are subject to
4 the provisions of that Act; and
5 (7) the term "State and local development com-
6 panies" means enterprises incorporated under State law
7 with the authority to promote and assist the growth
8 and development of small-business concerns in the areas
9 covered by their operations.

10 TITLE II—SMALL BUSINESS INVESTMENT
11 DIVISION OF THE SMALL BUSINESS AD-
12 MINISTRATION

13 ESTABLISHMENT OF SMALL BUSINESS INVESTMENT
14 DIVISION

15 SEC. 201. There is hereby established in the Small Busi-
16 ness Administration a division to be known as the Small
17 Business Investment Division. The Division shall be headed
18 by a Deputy Administrator who shall be appointed by the
19 Administrator, and shall receive compensation at the rate
20 provided by law for other deputy administrators of the Small
21 Business Administration. The powers conferred by this Act
22 upon the Administration shall be exercised by the Adminis-
23 tration through the Small Business Investment Division, and
24 the powers herein conferred upon the Administrator shall
25 be exercised by him through the Deputy Administrator ap-

1 pointed hereunder. In the performance of, and with respect
2 to the functions, powers, and duties vested by this Act, the
3 Administrator and the Administration shall (in addition to
4 any authority otherwise vested by this Act) have the func-
5 tions, powers, and duties set forth in the Small Business Act
6 of 1953, and the provisions of sections 209 and 219 of that
7 Act, insofar as applicable, are extended to apply to the
8 functions of the Administrator and the Administration under
9 this Act.

10 PROVISION OF FUNDS

11 SEC. 202. (a) In order to finance activities as provided
12 in section 203, the Administration is authorized and em-
13 powered to issue to the Secretary of the Treasury notes and
14 other obligations in an amount not exceeding $250,000,000
15 outstanding at any one time: *Provided,* That the total
16 amount of such notes and other obligations which may be
17 outstanding during the first year after enactment shall not ex-
18 ceed $50,000,000, and during the second year after enact-
19 ment shall not exceed $150,000,000. Such notes and other
20 obligations shall be in such forms and denominations, have
21 such maturities, and be subject to such terms and conditions
22 as may be prescribed by the Administration, with the ap-
23 proval of the Secretary of the Treasury. Such notes and
24 other obligations shall bear interest at a rate determined by
25 the Secretary of the Treasury which shall not be more than

1 the current average yield on outstanding marketable obliga-
2 tions of the United States of comparable maturities as of the
3 last day of the month preceding the issuance of such notes and
4 other obligations. The Secretary of the Treasury is author-
5 ized to purchase any notes and other obligations of the Ad-
6 ministration issued hereunder and for such purpose the Secre-
7 tary of the Treasury is authorized to use as a public debt
8 transaction the proceeds from the sale of any securities issued
9 under the Second Liberty Bond Act, as amended, and the
10 purposes for which securities may be issued under such Act
11 are extended to include any purchases of such notes and
12 other obligations. The Secretary of the Treasury may at any
13 time sell any of the notes and other obligations acquired by
14 him under this section. All redemptions, purchases, and
15 sales by the Secretary of the Treasury of such notes and
16 other obligations shall be treated as public debt transactions
17 of the United States.

18 (b) Funds borrowed under this section and any pro-
19 ceeds therefrom shall constitute a revolving fund which may
20 be used by the Administration in the exercise of its functions
21 under this Act.

22 (c) There are hereby authorized to be appropriated
23 such sums as may be necessary and appropriate for the
24 administrative expenses of the Administration.

1 PURPOSES OF REVOLVING FUND

2 SEC. 203. The Administration is authorized to use its
3 revolving fund—

4 (1) to purchase the subordinated debentures of
5 small business investment companies as provided in
6 section 302;

7 (2) to make loans to small business investment
8 companies as provided in section 303; and

9 (3) to make loans to State and local development
10 companies as provided in sections 501 and 502.

11 TITLE III—SMALL BUSINESS INVESTMENT
12 COMPANIES

13 ORGANIZATION OF SMALL BUSINESS INVESTMENT
14 COMPANIES

15 SEC. 301. (a) Small business investment companies
16 may be formed for the purpose of operating under this Act
17 by any number of persons, not less than ten, who shall sub-
18 scribe to the articles of incorporation of any such company:
19 *Provided,* That no such company shall be chartered under
20 this section after June 30, 1961.

21 (b) The articles of incorporation of any small business
22 investment company shall specify in general terms the objects
23 for which the company is formed, the name assumed by such
24 company, the area or areas in which its operations are to be

1 carried on, the place where its principal office is to be located,
2 and the amount and classes of its shares of capital stock.
3 Such articles may contain any other provisions not incon-
4 sistent with this Act that the company may see fit to adopt
5 for the regulation of its business and the conduct of its
6 affairs. Such articles and any amendments thereto adopted
7 from time to time shall be subject to the approval of the
8 Administration.

9 (c) The articles of incorporation and amendments
10 thereto shall be forwarded to the Administration for con-
11 sideration and approval or disapproval. In determining
12 whether to approve the establishment of such a company
13 and its proposed articles of incorporation, the Administration
14 shall give due regard, among other things, to the need for
15 the financing of small-business concerns in the area in which
16 the proposed company is to commence business, the general
17 character of the proposed management of the company, the
18 number of such companies previously organized in the
19 United States, and the volume of their operations. After
20 consideration of all relevant factors, the Administration may
21 in its discretion approve the articles of incorporation and
22 issue a permit to begin business.

23 (d) Upon issuance of such permit, the company shall
24 become and be a body corporate, and as such, and in the
25 name designated in its articles shall have power—

1 (1) to adopt and use a corporate seal;

2 (2) to have succession for a period of thirty years,
3 unless extended as provided in section 309 (f), or
4 unless sooner dissolved by the act of the shareholders
5 owning two-thirds of the stock or by an Act of Congress,
6 or unless its franchise becomes forfeited by some viola-
7 tion of law or regulation issued hereunder;

8 (3) to make contracts;

9 (4) to sue and be sued, complain, and defend in
10 any court of law or equity;

11 (5) by its board of directors, to appoint such offi-
12 cers and employees as may be deemed proper, define
13 their authority and duties, fix their compensation, re-
14 quire bonds of such of them as it deems advisable and
15 fix the penalty thereof, dismiss such officers or employees,
16 or any thereof, at pleasure, and appoint others to fill
17 their places;

18 (6) to adopt bylaws regulating the manner in which
19 its stock shall be transferred, its officers and employees
20 appointed, its property transferred, and the privileges
21 granted to it by law exercised and enjoyed;

22 (7) to establish branch offices or agencies subject
23 to the approval of the Administration;

24 (8) to acquire, hold, operate, and dispose of any

1 property (real, personal, or mixed) whenever necessary
2 or appropriate to the carrying out of its lawful functions;
3 (9) to act as depository or fiscal agent of the United
4 States when so designated by the Secretary of the
5 Treasury;
6 (10) to operate in such area or areas as may be
7 specified in its articles of incorporation and approved
8 by the Administration; and
9 (11) to exercise the other powers set forth in this
10 Act and such incidental powers as may reasonably be
11 necessary to carry on the business for which the company
12 is established.
13 (e) The board of directors of each small business invest-
14 ment company shall consist of nine members who shall be
15 elected annually by the holders of the shares of stock of the
16 company.
17 CAPITAL STOCK AND SUBORDINATED DEBENTURES
18 SEC. 302. (a) Each company organized under this Act
19 shall have a paid-in capital and surplus equal to at least
20 $300,000 before it shall commence business. In order to
21 facilitate the formation of small business investment com-
22 panies, the Administration is hereby authorized, notwith-
23 standing any other provisions of law, to purchase the deben-
24 tures of any such company in an amount equal to not more
25 than $150,000. Any debentures purchased by the Admin-

1 istration under this subsection shall be subordinate to any
2 other debenture bonds, promissory notes, or other obligations
3 which may be issued by such companies, and shall be deemed
4 a part of the capital and surplus of such companies for
5 purposes of this section and sections 303 (b) and 306 of
6 this Act.

7 (b) The shares of stock in any small business invest-
8 ment company shall be eligible for purchase by member
9 banks of the Federal Reserve System, nonmember insured
10 banks, financial institutions, insurance companies, corpora-
11 tions, partnerships, or other persons. In no event shall any
12 member bank of the Federal Reserve System or any non-
13 member insured bank hold such shares in small business
14 investment companies in an amount aggregating more than
15 1 percent of the capital and surplus of such bank.

16 (c) The aggregate amount of shares in any such com-
17 pany or companies which may be owned or controlled by
18 any stockholder, or by any group or class of stockholders,
19 may be limited by the Administration.

20 BORROWING POWER

21 SEC. 303. (a) Each small business investment company
22 shall have authority to borrow money and to issue its
23 debenture bonds, promissory notes, or other obligations under
24 such general conditions and subject to such limitations and
25 regulations as the Administration may prescribe.

1 (b) To encourage the formation and growth of small
2 business investment companies, the Administration is
3 authorized to lend funds to such companies through the
4 purchase of their obligations which shall bear interest at such
5 rate, and contain such other terms, as the Administration
6 may fix. The total amount of obligations purchased and
7 outstanding at any one time by the Administration under this
8 subsection in any one company shall not exceed 50 percent
9 of the paid-in capital and surplus of such company.

10 PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS
11 CONCERNS

12 SEC. 304. (a) It shall be a primary function of each
13 small business investment company to provide a source of
14 needed equity capital for small-business concerns in the man-
15 ner and subject to the conditions described in this section.

16 (b) Capital shall be provided by a company to a small-
17 business concern under this section only through the purchase
18 of debenture bonds (of such concern) which shall—

19 (1) bear interest at such rate, and contain such
20 other terms, as the company may fix with the approval
21 of the Administration;

22 (2) be callable on any interest payment date, upon
23 three months' notice, at par plus accrued interest; and

24 (3) be convertible at the option of the company,

1 or a holder in due course, up to and including the
2 effective date of any call by the issuer, into stock of
3 the small-business concern at the sound book value of
4 such stock determined at the time of the issuance of the
5 debentures.

6 (c) Before any capital is provided to a small-business
7 concern under this section—

8 (1) the company may require such concern to
9 refinance any or all of its outstanding indebtedness so
10 that the company is the only holder of any evidence of
11 indebtedness of such concern; and

12 (2) except as provided in regulations issued by
13 the Administration, such concern shall agree that it will
14 not thereafter incur any indebtedness without first se-
15 curing the approval of the company and giving the
16 company the first opportunity to finance such indebted-
17 ness.

18 (d) Whenever a company provides capital to a small-
19 business concern under this section, such concern shall be
20 required to become a stockholder-proprietor of the company
21 by investing in the capital stock of the company, in an
22 amount equal to not less than 2 percent nor more than
23 5 percent of the amount of the capital so provided, in accord-
24 ance with regulations prescribed by the Administrator; ex-

1 cept that the Administrator may by regulation permit any
2 such concern to defer the purchase of such stock for a period
3 of not to exceed three years.

4 LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

5 SEC. 305. (a) Each company is authorized to make
6 loans, in the manner and subject to the conditions described
7 in this section, to incorporated and unincorporated small-
8 business concerns in order to provide such concerns with
9 funds needed for sound financing, growth, modernization,
10 and expansion.

11 (b) Loans made under this section may be made
12 directly or in cooperation with other lending institutions
13 through agreements to participate on an immediate or
14 deferred basis.

15 (c) The maximum rate of interest for the company's
16 share of any loan made under this section shall be deter-
17 mined by the Administration.

18 (d) Any loan made under this section shall have a ma-
19 turity not exceeding twenty years.

20 (e) Any loan made under this section shall be of such
21 sound value, or so secured, as reasonably to assure repay-
22 ment.

23 (f) Any company which has made a loan to a small-
24 business concern under this section is authorized to extend

1 the maturity of or renew such loan for additional periods, not
2 exceeding ten years, if the company finds that such extension
3 or renewal will aid in the orderly liquidation of such loan.

4 AGGREGATE LIMITATIONS

5 SEC. 306. Without the approval of the Administration,
6 the aggregate amount of obligations and securities acquired
7 and for which commitments may be issued by any small
8 business investment company under the provisions of this
9 Act for any single enterprise shall not exceed 20 percent of
10 the combined capital and surplus of such small business
11 investment company authorized by this Act.

12 EXEMPTIONS

13 SEC. 307. (a) Section 3 of the Securities Act of 1933,
14 as amended (15 U. S. C. 77c), is hereby amended by in-
15 serting at the end thereof the following new subsection (c):
16 "(c) The Commission may from time to time by its
17 rules and regulations and subject to such terms and condi-
18 tions as may be prescribed therein, add to the securities
19 exempted as provided in this section any class of securities
20 issued by a small business investment company under the
21 Small Business Investment Act of 1958 if it finds, having
22 regard to the purposes of that Act, that the enforcement of
23 this Act with respect to such securities is not necessary in
24 the public interest and for the protection of investors."

1 (b) Section 304 of the Trust Indenture Act of 1939
2 (15 U. S. C. 77ddd) is hereby amended by adding the
3 following subsection (e):
4 "(e) The Commission may from time to time by its
5 rules and regulations, and subject to such terms and condi-
6 tions as may be prescribed herein, add to the securities
7 exempted as provided in this section any class of securities
8 issued by a small business investment company under the
9 Small Business Investment Act of 1958 if it finds, having
10 regard to the purposes of that Act, that the enforcement of
11 this Act with respect to such securities is not necessary in
12 the public interest and for the protection of investors."
13 (c) Section 18 of the Investment Company Act of
14 1940 (15 U. S. C. 80a) is amended by adding at the end
15 thereof the following:
16 "(k) The provisions of subparagraphs (A) and (B) of
17 paragraph (1) of subsection (a) of this section shall not
18 apply to investment companies operating under the Small
19 Business Investment Act of 1958."
20 MISCELLANEOUS
21 SEC. 308. (a) Wherever practicable the operations of
22 a small business investment company, including the genera-
23 tion of business, may be undertaken in cooperation with
24 banks or other financial institutions, and any servicing or
25 initial investigation required for loans or acquisitions of

1 securities by the company under the provisions of this Act
2 may be handled through such banks or other financial
3 institutions on a fee basis. Any small business investment
4 company may receive fees for services rendered to banks or
5 other financial institutions.

6 (b) Each small business investment company may make
7 use, wherever practicable, of the advisory services of the
8 Federal Reserve System and of the Department of Commerce
9 which are available for and useful to industrial and com-
10 mercial businesses, and may provide consulting and advisory
11 services on a fee basis and have on its staff persons competent
12 to provide such services. Any Federal Reserve bank is au-
13 thorized to act as a depository or fiscal agent for any com-
14 pany organized under this Act. Such companies may invest
15 funds not reasonably needed for their current operations in
16 direct obligations of, or obligations guaranteed as to principal
17 and interest by, the United States.

18 (c) The Administration is authorized to prescribe regu-
19 lations governing the operations of small business investment
20 companies, and to carry out the provisions of this Act, in ac-
21 cordance with the purposes of this Act. Each small business
22 investment company shall be subject to examinations made
23 by direction of the Administration by examiners selected or
24 approved by the Administration, and the cost of such exam-
25 inations, including the compensation of the examiners, may

1 in the discretion of the Administration be assessed against the
2 company examined and when so assessed shall be paid by
3 such company. Every such company shall make such re-
4 ports to the Administration at such times and in such form as
5 the Administration may require; except that the Adminis-
6 tration is authorized to exempt from making such reports
7 any such company which is registered under the Investment
8 Company Act of 1940 to the extent necessary to avoid
9 duplication in reporting requirements.

10 (d) Should any small business investment company vio-
11 late or fail to comply with any of the provisions of this Act
12 or of regulations prescribed hereunder, all of its rights, privi-
13 leges, and franchises derived therefrom may thereby be for-
14 feited. Before any such company shall be declared dissolved,
15 or its rights, privileges, and franchises forfeited, any non-
16 compliance with or violation of this Act shall be determined
17 and adjudged by a court of the United States of competent
18 jurisdiction in a suit brought for that purpose in the district,
19 territory, or other place subject to the jurisdiction of the
20 United States, in which the principal office of such company
21 is located. Any such suit shall be brought by the United
22 States at the instance of the Administration or the Attorney
23 General.

24 (e) Whenever in the judgment of the Administra-
25 tion any person has engaged or is about to engage in any

1 acts or practices which constitute or will constitute a viola-
2 tion of any provision of this Act or of any regulation there-
3 under, the Administration may make application to the
4 proper district court of the United States, or a United
5 States court of any Territory or other place subject to the
6 jurisdiction of the United States, for an order enjoining such
7 acts or practices, or for an order enforcing compliance with
8 such provision, or regulation, and such courts shall have
9 jurisdiction of such actions and, upon a showing by the Ad-
10 ministration that such person has engaged or is about to
11 engage in any such acts or practices, a permanent or tem-
12 porary injunction, restraining order, or other order, shall
13 be granted without bond.

14 (f) Any small business investment company may at any
15 time within the two years next previous to the date of the
16 expiration of its corporate existence, by a vote of the share-
17 holders owning two-thirds of its stock, apply to the Admin-
18 istration for approval to extend the period of its corporate ex-
19 istence for a term of not more than thirty years, and upon
20 approval of the Administration, as provided in section 301
21 hereof, such company shall have its corporate existence ex-
22 tended for such approved period unless sooner dissolved by
23 the act of the shareholders owning two-thirds of its stock,
24 or by an Act of Congress, or unless its franchise becomes
25 forfeited as herein provided.

1 (g) Nothing in this Act or in any other provision of
2 law shall be deemed to impose any liability on the United
3 States with respect to any obligations entered into, or stocks
4 issued, or commitments made, by any company organized
5 under this Act.

6 APPROVING STATE CHARTERED COMPANIES FOR
7 OPERATIONS UNDER THIS ACT

8 SEC. 309. Any investment company chartered under the
9 laws of any State expressly for the purpose of operating
10 under this Act may with the approval of the Administrator
11 be permitted to operate under the provisions of this Act.
12 Upon such approval, which shall be given with due regard
13 to the factors specified in section 301 (c) with respect to
14 organization of small business investment companies, such
15 State investment company shall have the same powers and
16 privileges and shall be subject to the same duties, liabilities,
17 and regulations, in all respects, as are prescribed by this Act
18 for companies organized under section 301 as small business
19 investment companies.

20 TITLE IV—CONVERSION OF STATE CHARTERED
21 INVESTMENT COMPANIES AND STATE DE-
22 VELOPMENT COMPANIES

23 SEC. 401. (a) Prior to July 1, 1961, any investment
24 company or any State development company may, by the
25 vote of the shareholders owning not less than 51 percent of

1 the capital stock of such company, with the approval of the
2 Administration, be converted into a small business invest-
3 ment company under this Act; except that nothing contained
4 herein shall be construed to supersede the laws of any State.
5 (b) In such case the articles of association and organi-
6 zation certificate may be executed by a majority of the
7 directors of the corporation, and the certificate shall declare
8 that the owners of 51 percent of the capital stock have
9 authorized the directors to make such certificate and to
10 change or convert the corporation into a small business in-
11 vestment company. A majority of the directors, after exe-
12 cuting the articles of association and the organization certifi-
13 cate, shall have power to execute all other papers and to
14 do whatever may be required to make its organization per-
15 fect and complete as a small business investment company.
16 The shares of any such company may continue to be for the
17 same amount each as they were before the conversion, and
18 the directors, regardless of number, may continue to be
19 directors of the corporation until the election of the board
20 of directors is held in accordance with regulations of the
21 Administration.
22 (c) When the Administration has given to such com-
23 pany a certificate that the provisions of this Act have been
24 complied with, such company shall have the same powers and
25 privileges and shall be subject to the same duties, liabilities,

1 and regulations, in all respects, as are prescribed by this
2 Act for companies originally organized as small business
3 investment companies.

4 TITLE V—LOANS TO STATE AND LOCAL DE-
5 VELOPMENT COMPANIES

6 SEC. 501. (a) The Administration is authorized to
7 make loans to State and local development companies to
8 assist in carrying out the purposes of this Act; except that
9 no such loan shall be made to any local development company
10 after June 30, 1961. Any funds advanced under this sub-
11 section shall be in exchange for obligations of the develop-
12 ment company which bear interest at such rate, and contain
13 such other terms, as the Administration may fix, and funds
14 may be so advanced without regard to the use and investment
15 by the development company of funds secured by it from
16 other sources.

17 (b) The total amount of obligations purchased and out-
18 standing at any one time by the Administration under this
19 section from any one State or local development company
20 shall not exceed the total amount borrowed by it from all
21 other sources.

22 SEC. 502. The Administration may, in addition to its
23 authority under section 501, make loans for plant construc-
24 tion, conversion or expansion, including the acquisition of
25 land, to State and local development companies, and such

1 loans may be made or effected either directly or in coopera-
2 tion with banks or other lending institutions through agree-
3 ments to participate on an immediate or deferred basis: *Pro-*
4 *vided, however,* That the foregoing powers shall be subject to
5 the following restrictions and limitations:

6 (1) All loans made shall be so secured as reasonably
7 to assure repayment. In agreements to participate in loans
8 on a deferred basis under this subsection, such participation
9 by the Administration shall not be in excess of 90 per centum
10 of the balance of the loan outstanding at the time of dis-
11 bursement.

12 (2) The proceeds of any such loan shall be used solely
13 by such borrower to assist an identifiable small-business con-
14 cern and for a sound business purpose approved by the
15 Administration.

16 (3) Loans made by the Administration under this sec-
17 tion shall be limited to $250,000 for each such identifiable
18 small-business concern.

19 (4) Any development company assisted under this sec-
20 tion must meet criteria established by the Administration, in-
21 cluding the extent of participation to be required or amount
22 of paid-in capital to be used in each instance as is determined
23 to be reasonable by the Administration.

24 (5) No loans, including extensions or renewals thereof,
25 shall be made by the Administration for a period or periods

1 exceeding ten years plus such additional period as is estimated
2 may be required to complete construction, conversion, or
3 expansion, but the Administration may extend the maturity
4 of or renew any loan made pursuant to this section beyond
5 the period stated for additional periods, not to exceed ten
6 years, if such extension or renewal will aid in the orderly
7 liquidation of such loan. Any such loan shall bear interest
8 at a rate fixed by the Administration.

9 (6) No loan shall be made under this section to any
10 local development company after June 30, 1961.

11 TITLE VI—CHANGES IN FEDERAL RESERVE 12 AUTHORITY

13 REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

14 SEC. 601. Effective one year after the date of enact-
15 ment of this Act, section 13b of the Federal Reserve Act
16 (12 U. S. C. 352a) is hereby repealed; but such repeal
17 shall not affect the power of any Federal Reserve bank
18 to carry out, or protect its interest under, any agreement
19 theretofore made or transaction entered into in carrying on
20 operations under that section.

21 FUND FOR MANAGEMENT COUNSELING

22 SEC. 602. (a) Within sixty days after the enactment
23 of this Act, each Federal Reserve bank shall pay to the
24 United States the aggregate amount which the Secretary
25 of the Treasury has heretofore paid to such bank under the

1 provisions of section 13b of the Federal Reserve Act; and
2 such payment shall constitute a full discharge of any obliga-
3 tion or liability of the Federal Reserve bank to the United
4 States or to the Secretary of the Treasury arising out of sub-
5 section (e) of said section 13b or out of any agreement
6 thereunder.

7 (b) The amounts repaid to the United States pursuant
8 to subsection (a) of this section shall be covered into a spe-
9 cial fund in the Treasury which shall be available for grants
10 under section 207 (c) of the Small Business Act of 1953.
11 Any remaining balance of funds set aside in the Treasury for
12 payments under section 13b of the Federal Reserve Act shall
13 be covered into the Treasury as miscellaneous receipts.

14 (c) Section 207 of the Small Business Act of 1953 is
15 amended by adding at the end thereof a new subsection as
16 follows:

17 "(c) The Administration also is empowered to make
18 grants to any State government, or any agency thereof,
19 State chartered development credit or finance corporations,
20 land-grant colleges and universities, and colleges and schools
21 of business, engineering, commerce, or agricultural studies,
22 research, and counseling concerning the managing, financing,
23 and operation of small-business enterprises and technical
24 and statistical information necessary thereto in order to carry
25 out the purposes of subsection (b) (4) of this section by

1 coordinating such information with existing information fa-
2 cilities within the State and by making such information
3 available to State and local agencies. Only one such grant
4 shall be made within any one State in any one year, and no
5 such grant shall exceed an aggregate amount of $40,000.
6 Such grants shall be made from the fund established in the
7 Treasury by section 602 (b) of the Small Business Invest-
8 ment Act of 1958."

9 TITLE VII—CRIMINAL PENALTIES

10 SEC. 701. (a) The first paragraph of section 217 of
11 title 18, United States Code, is amended by inserting after
12 "farm credit examiner," the following: "or of any small
13 business investment company,".

14 (b) Section 218 of such title is amended by inserting
15 after "National Agricultural Credit Corporations," the fol-
16 lowing: "or an examiner of small business investment
17 companies,".

18 SEC. 702. (a) The first paragraph of section 221 of
19 title 18, United States Code, is amended by inserting after
20 "United States," the following: "or a small business invest-
21 ment company,".

22 (b) The second paragraph of such section 221 is
23 amended by inserting after "Congress," the following: "or
24 any small business investment company,".

25 (c) The heading of such section 221 is amended by

1 striking out "farm loan or land bank" and inserting in lieu
2 thereof "farm loan, land bank, or small business".
3 (d) The table of sections for chapter 11 of such title 18
4 is amended by striking out "farm loan or land bank" in the
5 reference to section 221 and inserting in lieu thereof "farm
6 loan, land bank, or small business".
7 SEC. 703. Section 657 of title 18, United States Code,
8 is amended by inserting after "Federal Savings and Loan
9 Insurance Corporation," the following: "or any small busi-
10 ness investment company,".
11 SEC. 704. Section 1006 of title 18, United States Code,
12 is amended by inserting after "Federal Savings and Loan
13 Insurance Corporation," the following: "or any small busi-
14 ness investment company,".
15 SEC. 705. Section 1014 of title 18, United States Code,
16 is amended by inserting after "a Federal Reserve bank,"
17 the following: "or of a small business investment company,".

Passed the Senate June 9, 1958.

Attest: FELTON M. JOHNSTON,
Secretary.

85TH CONGRESS
2D SESSION

S. 3651

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 10, 1958

Referred to the Committee on Banking and Currency

House - June 25, 1958

4. TRANSPORTATION. The Rules Committee granted an open rule with 2 hours debate on H. R. 12832, to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system. pp. 11105, D594

Rep. Rogers, Fla., urged adoption of a Senate amendment to H. R. 12695, the excise-tax rate extension bill, which would repeal the tax on transportation. p. 11064

5. SMALL BUSINESS. The Banking and Currency Committee ordered reported with amendment S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. p. D593

Rep. Derounian inserted a constituents's letter commending the work of the Small Business Administration. pp. 11100-01

6. PROPERTY. The Government Operations Committee ordered reported H. R. 12165, to extend for 2 years the period for which payments in lieu of taxes may be made on certain real property transferred by RFC to other Government agencies. p. D593

7. PUBLIC WORKS. Agreed to the conference report on S. 3910, the rivers and harbors, and flood control authorization bill. The Senate had agreed to the report earlier. This bill will now be sent to the President. pp. 11094-96, 11022-25

8. RECLAMATION. The "Daily Digest" states as follows: "Committee on Interior and Insular Affairs: Considered and began reading for amendment H. R. 594, to authorize the construction, operation, and maintenance of the Fryingpan-Arkansas project, Colorado. Thereafter rejected by a vote of 15-5 a motion to recommit the bill to Subcommittee on Irrigation and Reclamation. A point of order was then made and sustained of no quorum and meeting was adjourned." p. D593

9. BUILDING SPACE. Agreed to a concurrent resolution, S. Con. Res. 95, authorizing the correction of an error in the enrollment of S. 2533, to authorize GSA to lease space for Federal agencies for periods not exceeding 10 years. p. 11097

10. NATURAL RESOURCES. Concurred in the Senate amendments to H. R. 8054, to provide for the leasing of oil and gas deposits in lands beneath nontidal navigable waters in Alaska. This bill will now be sent to the President. pp. 11097-11100

11. WHEAT. Rep. Mumma inserted a newspaper article, "Wheatgrowers Favor Quotas for 1959 - Lebanon County Farmers, in Light Ballot, Vote No on Controls Issue." p. 11101

12. WILDLIFE. Both Houses received from Interior a proposed bill "to revise the Alaska game law and to provide for the protection of marine mammals on and off the cost of Alaska"; to Interior and Insular Affairs Committees. pp. 10996, 11105.

13. LEGISLATIVE PROGRAM. Rep. McCormack announced that after consideration of the farm bill, the omnibus transportation bill, H. R. 12832, will be considered under suspension of the rules. He also announced that H. R. 4504, to improve marketing facilities for perishable commodities, has been taken off the program and will not be considered this week. p. 11088

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 26, 1958
For actions of June 25, 1958
85th-2d, No. 105

CONTENTS

Appropriations.....3,24
Area redevelopment.....33
Banking.....32
Building space.....9
CCC.....32
Civil defense.....37
Cooperatives.....14
Corn.....35
Electrification.....34
Employment.....27
Ethics.....25
Farm prices.....28
Farm program....1,13,16,29
FHA.....32
Food stamps.....2
Food supply.....37
Foreign aid.....30
Foreign trade.....20
Forestry.....17,36
Grain storage.....31
Humane slaughter.....19
Industrial uses.....14
Lands.....10
Legislative program..13,26
Libraries.....39
Loans.....32
Marketing facilities....13
Milk.....15,41
Natural resources.....10
Personnel.....25,42
Property.....6
Public Law 480.....20
Public works.....7
Reclamation.....8,22
Research.....21
Small business.....5
Statehood.....18
Transportation.....4
Vehicles.....40
Water resources.....38
Watersheds.....23
Wheat.....11
Wildlife.....12,38

HIGHLIGHTS: House Rules Committee cleared farm bill. To be debated today. Senate committee ordered reported bill for increased industrial uses of farm products. Senate committee reported measure to extend special milk program for 60 days. House committee ordered reported food stamp bill. Sen. Humphrey spoke against Senate Committee farm bill. Both Houses adopted conference report on State-Justice appropriation bill. Rep. Quie introduced and discussed measure to extend special milk program for 90 days.

HOUSE

1. FARM PROGRAM. The Rules Committee granted an open rule with 5 hours of debate and waiving points of order against H. R. 12954, the omnibus farm bill. Rep. McCormack announced that debate on the bill will begin today, June 26. pp. 11106, D594, 11088

2. FOOD STAMPS. The Agriculture Committee ordered reported H. R. 13054, to direct the Secretary to establish a food stamp plan. p. D593

3. APPROPRIATIONS. Agreed to the conference report on H. R. 12428, the State-Justice appropriation bill for 1959, and acted on amendments in disagreement. p. 11065

   Conferees were appointed on H. R. 11645, the Labor-HEW appropriation bill for 1959. Senate conferees were appointed June 20. p. 11063

House - June 30, 1958

3. FOREIGN TRADE; SURPLUS COMMODITIES. Several Representatives urged early consideration of legislation for the extension of Public Law 480. Rep. Cooley and Poage indicated the measure would require further study, particularly with regard to the barter provision. Rep. McCormack expressed concern with the effects of surplus disposals on our relations with friendly countries. pp. 11485-86, 11487-490, 11542-43

4. SMALL BUSINESS. The Banking and Currency Committee reported with amendment S. 3651, to make equity capital and long-term credit more readily available for small business concerns (H. Rept. 2060). p. 11551

5. TRANSPORTATION. The Merchant Marine and Fisheries Committee reported without amendment H. R. 12751, to extend the provisions of the Shipping Act of 1916 relating to dual rate contract arrangements (H. Rept. 2055). p. 11551

Rep. Harris inserted the text, as passed by the House, of H. R. 12832, the omnibus transportation bill. He stated the text of the bill appearing in the June 27 Record was not complete. pp. 11500-502

6. FLOOD CONTROL. A subcommittee of the Public Works Committee ordered reported H. R. 9924, to grant the consent of Congress to a compact between Conn. and Mass. relating to flood control. p. D614

SENATE

7. FARM PROGRAM. The Agriculture and Forestry Committee reported (on June 28) an original bill, S. 4071, to provide price, production adjustment, and marketing programs for various commodities (S. Rept. 1766). p. 11398

8. STATEHOOD. Passed without amendment, 64 to 20, H. R. 7999, to admit Alaska into the Union as a State. This bill will now be sent to the President. pp. 11400, 11403-6, 11416-19, 11421-6, 11428-38, 11443-70

9. TRANSPORTATION. Senate conferees were appointed on S. 3778, the omnibus transportation bill. House conferees have been appointed. pp. 11426-8

10. MONOPOLIES. The Judiciary Committee ordered reported without amendment S. 721, to expedite the enforcement of Clayton Act cease and desist orders. p. D612

11. RESEARCH. Sens. Ellender and Proxmire were added as cosponsors to S. 3697, to create an Agricultural Research and Industrial Borad to coordinate research into new industrial uses for farm crops. p. 11399

12. SMALL BUSINESS. H. R. 7963, to extend the Small Business Act of 1953 and increase the SBA loan authority, was made the pending business. p. 11470

13. FOREIGN AID. Sen. Bridges urged that Poland not be given foreign aid. p. 11416

14. SURPLUS PROPERTY. Sen. Thye urged enactment of S. 1318, to provide for the free donation of Federal surplus property to State and local governments for recreational purposes, and inserted a letter from the Minn. Conservation Commissioner supporting the bill. p. 11471

15. WATER RESOURCES. Sen. Watkins inserted a speech by a water attorney, "Current Developments in Water Law." pp. 11471-7

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 1, 1958
For actions of June 30, 1958
85th-2d, No. 108

CONTENTS

Appropriations 36,38
Banking.....26
Barter.....3
Buildings.....27
Corn.....25
Cotton.....17
Defense production.....35
Economic situation...23,29
Ethics.....28
Extension Service.....19
Farm program.....7,20
Flood control.....6
Food stockpiling.....30
Foreign aid.....13,21
Foreign trade.....3
Forestry.....24,34
Livestock loans.....2
Milk.....1
Minerals.....31
Monopolies.....10
Price supports.....1
Public Law 480.....3,32
Recreation.....34
Regulatory agencies.....33
Renegotiation.....22
Research.....11,16
Small business.....4,12
Statehood.....8,18
Surplus commodities.....3
Surplus property.....14
Taxation.....37
Transportation.....5,9
Water resources.....15

HIGHLIGHTS: Senate committee reported omnibus farm bill. House passed bill to extend special milk program for 3 years. House concurred in Senate amendment to bill to extend special livestock loan authority. Several Representatives urged extension of Public Law 480. Sen. Jackson introduced and discussed measure to provide food and fiber stockpiling program. Rep. Coad introduced and discussed bill to extend Public Law 480.

HOUSE

1. MILK. Passed without amendment, 327 to 1, S. 3342, to extend the special milk program for children for 3 years, from July 1, 1958, through June 30, 1961. The bill authorizes use of up to $75 million of CCC funds for each of the 3 years to increase the consumption of fluid milk by children in nonprofit schools of high-school grade and under, and in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children; and provides that funds expended for this purpose shall not be considered as amounts expended for the purpose of carrying out the price-support program. This bill will now be sent to the President. pp. 11483-492

2. LIVESTOCK LOANS. Concurred in the Senate amendment to H. R. 11424, to extend for 2 years, through July 14, 1961, the authority of the Secretary to make supplementary advances to borrowers for special livestock loans. This bill will now be sent to the President. pp. 11492

85TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2060

SMALL BUSINESS INVESTMENT ACT OF 1958

JUNE 30, 1958.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SPENCE, from the Committee on Banking and Currency, submitted the following

REPORT

[To accompany S. 3651]

The Committee on Banking and Currency, to whom was referred the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments, as they appear in the reported bill, are as follows:

1. Page 1, lines 3 and 4, strike out "PURPOSE" and insert "POLICY."

2. Page 2, strike out the table of contents and insert the following:

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision and purposes of funds.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this Act.

20006—58——1

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 601. Repeal of section 13b of the Federal Reserve Act.
Sec. 602. Transfer of funds.

TITLE VII—CRIMINAL PENALTIES

3. Page 4, line 18, strike out "(a)".

4. Page 4, strike out lines 23 and 24 and insert the following:

(3) the terms "small business investment company" and "company" mean a small business investment company organized as provided in title III, including a State investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small business investment company under section 401 of this Act:

5. Page 5, line 13, strike out "of 1953.".

6. Page 5, insert "and" after the semicolon in line 13; strike out lines 14 through 17; and strike out "(7)" and insert "(6)" in line 18.

7. Page 5, line 18, strike out "State and local".

8. Page 6, line 22, strike out "of 1953".

9. Page 6, line 22, strike out "209 and 219" and insert "13 and 16".

10. Page 6, after the period in line 25, add the following new sentence:

Subject to the standards and procedures under section 505 of the Classification Act of 1949, as amended, not to exceed three positions in the Small Business Investment Division of the Administration may be placed in grades 16, 17, and 18 of the General Schedule established by that Act, and any such positions shall be additional to the number authorized by such section or otherwise.

11. Page 7, strike out line 7 and all that follows down through page 9, line 6, and insert the following:

PROVISION AND PURPOSES OF FUNDS

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "$650,000,000" each place it appears and inserting in lieu thereof "$900,000,000";

(2) by inserting before the period at the end of the fourth sentence the following: ", and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958"; and

(3) by inserting after the seventh sentence the following new sentence: "Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958."

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this Act.

12. Page 11, line 17, strike out "309 (f)" and insert "308 (f)".

13. Page 13, strike out line 20 and all that follows down through page 14, line 3, and insert the following:

(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.

14. Page 16, strike out the semicolon in line 19 and all that follows down through line 22, and insert a period.

15. Page 17, after the period in line 8, add the following new sentence:

In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

16. Page 19, line 11, strike out "80a" and insert "80a–18".

17. Page 25, in the sentence beginning in line 6, strike out "and local", and strike out the semicolon and all that follows and insert a period.

18. Page 25, line 19, strike out "or local".

19. Page 25, after the period in line 21, add the following new sentence:

Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

20. Page 28, line 3, strike out "Fund for Management Counseling" and insert "Transfer of Funds".

21. Page 28, strike out lines 14 through 20 and insert the following:

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into the Treasury as miscellaneous receipts.

22. Page 28, strike out line 24 and all that follows down through page 29, line 19.

Purpose of the Bill

The primary purpose of the bill as reported is to make equity-type capital and long-term credit more readily available for small-business concerns. The bill proposes to achieve this purpose through encouraging the establishment of privately owned small-business investment companies. The bill would provide financial assistance to help meet the initial capital requirements of these new investment companies

and also for expansion of their operations. These companies would in turn make equity-type loans and extend long-term credit to small-business concerns. Thus, there would be no direct Federal investment in any small-business concern under this program.

The bill would also provide Federal assistance to State and local development companies to enable them more effectively to help small businesses.

The program would be carried out through a new Small Business Investment Division established within the Small Business Administration. A revolving fund of $250 million to be established from appropriated funds is authorized to carry out the provisions of the act.

Need for Legislation

From time to time during the last 25 years the Congress has considered proposals to augment existing institutions for supplying capital and credit to small businesses. While many bills have been enacted in this general area, none of the programs established to date have met the needs of small business for equity capital financing or long-term credit.

Testimony received by the committee from representatives of the American Bankers Association, the Committee for Economic Development, and the United States Chamber of Commerce, as well as the testimony received from the Department of Commerce and the Small Business Administration indicates that these organizations are agreed that there is real need for a program designed to supply long-term and equity-type financing to small businesses. These witnesses were also in agreement that on the whole, short-term and intermediate credit needs of small businesses are being satisfactorily met through existing financial intermediaries, private and Government.

A recent and most authoritative study of this matter was made by the research staff of the Board of Governors of the Federal Reserve Board with the knowledge and encouragement of the four congressional committees having primary interest—the Banking and Currency Committees and the Select Committees on Small Business of both Houses of Congress. House Report No. 1889 (85th Cong., 2d sess.) of the Select Committee on Small Business issued on June 17, 1958, also covers the problems of small-business financing.

The Federal Reserve Board's study on the financing problems of small business had several objectives. One of these objectives was to assemble information bearing on the question of the economy's facilities serving these needs.

The Board's study found that the financial needs of small business vary among different categories of small concerns and that such needs are most complex. Information and data compiled clearly indicated that most of the unsatisfied demand of small business is for long-term loans, equity, or equity-type credit. The commercial banking system is not prepared or designed to satisfy needs for equity or long-term credit. Traditionally their operations have been confined to short and to, a limited extent, intermediate-term loans.

As indicated by the Federal Reserve Board's study, the unavailability of long-term loan and equity capital is clearly one of the most important problems of small business today. Such investment capital must necessarily come from the personal savings of the people and

most of these savings are going into existing financial intermediaries such as our large insurance companies, savings banks, and others which in turn reinvest these funds. The question then may well be asked why these institutional investors do not undertake investment of this type.

Institutional investors generally are limited by law in the choice of their investments. When these institutions can exert judgment in the matter of making investments it is found they prefer investing their funds in those securities which have active national markets. Information available to the committee indicates that institutional investors have shown little desire to invest in small concerns on a long-term basis and it is unlikely that their investment policies will change in this respect.

The business loan program of the Small Business Administration is limited to providing short-term and intermediate-term credit when such loans are unavailable from private financial institutions. This program does not provide equity financing. The Federal Government, therefore, at this time has no program which would make available long-term loans and equity capital to small business.

Most of the testimony received by the committee, and in particular the study of this problem by the Federal Reserve Board, points to the fact that there is a real need at this time to stimulate the availability of capital funds to small business; and there is a gap in the economy's present financial mechanism which prevents the small businesses of the country from obtaining needed long-term and equity-type financing. Your committee believes that Federal legislation is needed to meet this problem. The bill as reported is designed to establish a sound and effective program to help meet the long-term capital needs of small business. The bill in our judgment provides for a carefully reasoned and needed approach to a heretofore unchartered field.

Establishment of a Small Business Investment Division in the Small Business Administration

The bill would establish in the Small Business Administration a Small Business Investment Division. This Division would be headed by a Deputy Administrator who would be appointed by the Administrator of the Small Business Administration. All powers which would be conferred by the act upon the Administration would be exercised by the Small Business Investment Division; and those powers which would be conferred upon the Administrator would be exercised by him through the Deputy Administrator. The Small Business Investment Division would be a semiautonomous Division within the Small Business Administration. The new functions provided for in the bill would be separate and distinct from the other functions of the Small Business Administration.

APPOINTMENT AND CONFIRMATION OF DEPUTY ADMINISTRATOR

The committee seriously considered including in the bill a provision requiring that the Deputy Administrator appointed to head the new Division be appointed by the President and confirmed by the Senate. It believed that such a method of selection would give added stature to the new office and would place the Deputy Administrator in a

stronger position to administer the provisions of the act in an independent manner. The committee, however, recognized the organizational problems that would result from such a provision since the Administration already has three Deputy Administrators established by law who are appointed by the Administrator. Accordingly, the bill would provide that the new Deputy Administrator should likewise be appointed by the Administrator.

RECOMMENDATION OF THE COMMITTEE TO THE SENATE

The committee, however, recommends that the Senate during its consideration of H. R. 7963, "The Small Business Act," amend that bill so as to require that all Deputy Administrators of the Small Business Administration be appointed by the President and confirmed by the Senate.

Provision of Funds

The bill would provide funds for the program by authorizing an additional $250 million of appropriations to the existing revolving fund of the Small Business Administration which was established by the Small Business Act of 1953. These additional funds, however, could be used only to carry out the purposes of the Small Business Investment Act.

The Small Business Administration obtains its funds through annual appropriations. The committee believes that funds necessary to carry out the purposes of this new program, which would be administered through a Division within the Small Business Administration, should also be obtained through annual appropriations.

Small Business Investment Companies

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

The Small Business Administration (Small Business Investment Division) would be authorized under the bill to charter small-business investment companies. This authority would terminate as of June 30, 1961, but this termination would have no effect upon the continuing activities of any small-business investment companies chartered under this authority.

The bill would require 10 or more persons to sign the articles of incorporation of the proposed small-business investment company which would be filed with the Small Business Administration. Such articles of incorporation, when approved by SBA, would establish the company as a Federal corporation with the usual powers necessary to do business and to carry out the purposes for which they are established. In issuing any permit, the SBA would consider (1) the need for small-business financing in the area where the proposed company is to operate; (2) the character of the proposed management of the company; (3) the number of such companies already formed in the United States and the volume of their business; and (4) other related factors.

Your committee has provided for a termination date (June 30, 1961) of the authority of SBA to charter small-business investment companies. Thereafter, such companies must be chartered under State law and may be given permission to operate under this program

provided they qualify and are approved by the SBA. Within 3 years all States should be in a position to enact the necessary enabling legislation to permit the chartering of small-business investment companies to operate under this program, consequently the chartering function in SBA will be unnecessary after June 30, 1961.

CAPITAL STOCK REQUIREMENTS

The bill would require that each small-business investment company have not less than $300,000 of paid-in capital and surplus before commencing business.

In order to encourage the formation of small-business investment companies, the SBA is authorized to provide a maximum of $150,000 to each such company formed, through the purchase of subordinated debentures. These subordinated debentures are in fact debt obligations of the company occupying a junior position to other debt incurred by the company. However, in applying the following three limitations in the act the subordinated debentures would be treated as paid-in capital: (1) minimum capital required for formation of investment company, (2) the general limitation that other loans from SBA may not exceed 50 percent of paid-in capital and surplus of the company, and (3) the limitation that loans to an individual small-business concern may not exceed 20 percent of the capital and surplus of the investment company.

To facilitate further the formation of small-business investment companies the bill would authorize national banks to purchase stock in such companies. It would also authorize State member banks and nonmember insured banks to purchase such stock, where compatible with State law. However, no such bank would be able to hold shares in these companies in amounts aggregating more than 1 percent of the bank's capital and surplus.

Your committee wishes to make it quite clear that the bill would in no way preclude other types of institutions from purchasing stock of these companies. Their ability to do so, however, would depend entirely upon applicable Federal or State laws.

SBA LOANS TO INVESTMENT COMPANIES

The bill would also authorize the SBA to lend money to a small-business investment company on terms and at a rate of interest established by the Administration. The total amount loaned, however, could not exceed 50 percent of the paid-in capital and surplus of such company. The company would be authorized to borrow additional funds from private sources under conditions, limitations and regulations as the SBA may prescribe.

Your committee hopes and expects the major portion of the operating funds of these companies to come from private sources. On the other hand the committee realizes that initially a greater demand will be for funds from the Government until the experience of these companies and their success have been proven.

EQUITY-TYPE CAPITAL FOR SMALL BUSINESSES

Small-business investment companies are authorized to provide equity-type capital to small-business concerns through the purchase of convertible debentures which shall contain such terms and interest

rates as the companies fix under SBA regulations. These debentures are to be convertible at the option of the company or a holder in due course, up to and including the date of call, into stock of the small-business concern at the sound book value of such stock as determined at the time the debentures were issued.

The committee believes that the use of convertible debentures, which has been developed to a high degree in recent years by many large, publicly financed companies, is the most suitable financing instrument for this type of program. This type of debenture is attractive to speculative investors who want an opportunity to share in the future prosperity of a business beyond the fixed claim of ordinary debt. In view of the risk inherent in, and the admittedly experimental nature of the financing which this bill seeks to encourage, consideration must be given to encouraging such speculative investors.

Before an investment company purchases any such convertible debentures, it may require the small-business concern to refinance its outstanding indebtedness so that the investment company is the only holder of indebtedness of such concern. Furthermore, to protect the investment company, such small-business concern may be required to agree not to incur further indebtedness without approval of the investment company.

Whenever an investment company provides capital to a small-business concern through the purchase of convertible debentures, such concern is required to purchase stock in the investment company in an amount equalling from 2 to 5 percent of the amount of the capital provided, as established by SBA regulation. The purpose of this stock-purchase requirement is to build up the investment of private funds and, in due course, to make Federal participation unnecessary.

LOANS TO SMALL-BUSINESS CONCERNS

Small-business investment companies are authorized to make loans "of such sound value, or so secured, as reasonably to assure repayment" to small-business concerns, both incorporated and unincorporated. These loans may be made directly or in participation with other lending institutions. The maximum interest rate on such loans is to be set by the SBA. The maximum maturity of such loans is 20 years, but an investment company may extend the maturity of a loan for an additional 10 years if such extension will aid in the orderly liquidation of a loan. If, for example, a company grants a 20-year amortized loan of $20,000, payable in annual $1,000 payments, and after 15 payments have been made the borrower finds it impossible to continue payments at that rate, the company would be free to reduce the remaining payments and extend the maturity of the loan, up to 10 additional years so as to retire the balance of the debt at the reduced rate of payment. The company presumably would delay granting the extension until the loan matures, but the existence of this extension authority would permit the accommodation of the borrower, in appropriate cases, during the life of the loan.

Without approval of the SBA, the total amount which a small business investment company may lend and invest in a single small-business concern may not exceed 20 percent of the combined capital and surplus of such investment company (subordinated debentures purchased by the SBA under this bill are treated as part of capital and surplus for purposes of this limitation).

EXEMPTIONS FROM SECURITIES ACTS

The Securities and Exchange Commission would be authorized to exempt securities which are issued by small-business investment companies from the regulatory provisions contained in the Securities Act of 1933 and the Trust Indenture Act of 1939, if it finds that such exemption will not jeopardize the protection of investors or the public interest. These exemptions would be subject to such terms and conditions as the SEC may prescribe in its rules and regulations. Any such exemption from the Securities Act of 1933 would not affect any criminal or civil liabilities imposed by section 12 or section 17 of that act (relating to fraud or false statements).

A limited exemption from the Investment Company Act of 1940 is also included in the bill for those small-business investment companies which may be subject to regulation under that act. Such companies would be exempted by S. 3651 from the 1940 act's requirement of a 300-percent asset coverage for indebtedness. The bill provides that the SBA may prescribe limitations on borrowing by small-business investment companies. No definite debt-to-capital ratio is prescribed in the bill because of the experimental nature of this program.

State Chartered Companies

The bill offers two avenues for State-chartered companies to qualify for SBA loans and investments under title III, and for the tax benefits referred to later in this report.

First, the bill contemplates that during the 3-year period in which SBA may charter companies, the States would have an opportunity to establish the necessary machinery for chartering State companies to operate under the new program. When a State charters a company for this purpose, the company could, with SBA approval, operate as a small-business investment company under the act, with the same rights and obligations as an SBA-chartered company.

Second, during the period in which SBA may charter small-business investment companies, the bill would authorize any investment company or State development company to convert into an SBA-chartered company, with SBA's approval, by vote of shareholders holding a majority of the stock. Any company so converting would have all the rights and obligations of a small-business investment company originally chartered by SBA. This provision would not, of course, supersede State law; that is, it would apply only if the conversion is permitted by the State.

Thus the bill provides for ultimate transition from Federal chartering to State chartering, and would permit existing State-chartered companies which desire to do so to participate in the new program promptly by converting to SBA charters.

SBA Loans to State and Local Development Companies

The bill recognizes that State and local development companies can play an important role in helping supply small businesses with long-term loans and with plant facilities. About half of our States now have active State development companies or are considering proposals for establishing such companies, according to a study re-

cently made for SBA. Commerce Department figures indicate that approximately 1,800 communities have established local industrial development corporations. Title V of the bill provides for SBA loans to these development companies in order to stimulate their activities on behalf of small business concerns.

Section 501 of the bill would authorize SBA to make loans to any State development company in a total amount not exceeding the amount borrowed by the company from all other sources. These companies typically have a line of credit with member institutions such as commercial banks and insurance companies, under an agreement pledging the member institution to supply funds, on call, at a fixed ratio to the paid-in capital of the development corporation. Under the bill, in effect, SBA could match the investments made by these member institutions, thereby helping to alleviate the shortage of funds which has restricted the activities of the State development companies. The availability of these Federal funds should also stimulate the sale of stock by the development companies, generating further investment by the member institutions.

Section 501 as reported by your committee authorizes loans to State development companies only. As passed by the Senate, the section would have authorized loans to local development companies also, until July 1, 1961. Since unsecured loans may be made under section 501, your committee concluded that the section should be restricted to companies operating on a statewide basis, which are apt to be better capitalized and more widely diversified.

Section 502 provides for secured loans to both State and local development companies for site acquisition and plant construction, where the proceeds of the loan will assist an identifiable small-business concern. After June 30, 1961, such loans could be made only to State development companies.

Tax Provisions

In cooperation with the House Ways and Means Committee, the Senate Finance Committee has agreed to include in H. R. 8381—"Technical Amendments Act of 1957"—tax provisions which should prove helpful in increasing the amount of private funds available to the proposed investment companies. These tax provisions are endorsed by the Treasury Department. This amendment provides that taxpayers investing in the stock of small-business investment companies would be allowed an ordinary-loss deduction rather than a capital-loss deduction on losses arising from worthlessness or sale of such stock. Small-business investment companies would also be allowed an ordinary loss deduction, rather than a capital loss deduction, on losses sustained on convertible debentures, including stock received pursuant to the conversion privilege. The loss deduction would include losses due to worthlessness as well as those arising from sale or exchange of the security.

The small-business investment companies would also be allowed a deduction of 100 percent of dividends received from a taxable domestic corporation rather than the 85 percent deduction allowed corporate taxpayers generally.

The committee believes that these tax incentives are necessary if the proposed program is to attract private funds in sufficient volume to be of practical benefit to small businesses.

Differences Between the Bill as Passed the Senate and the Bill as Reported in the House

The following is a list of the differences of substance between the bill as passed the Senate and the bill as reported in the House:

1. Definition of small-business investment company

As passed the Senate, the bill defined the term "company" to mean a small-business investment company organized under title III of the bill. As reported in the House, the bill contains additional language making it clear that such term (as well as the term "small-business investment company" itself) also includes a State-chartered company which is approved by the Administrator to operate under the program or which is converted into a small-business investment company under the bill.

2. Definition of investment companies

As passed the Senate, the bill contained a definition of the term "investment companies" which in effect required a State-chartered investment company to meet the definition contained in the Investment Company Act of 1940 in order to qualify for conversion into a small-business investment company under title IV of the bill. As reported in the House, the bill does not contain this provision.

3. Supergrade positions

As reported in the House, the bill authorizes 3 new "supergrade" positions (grades 16, 17, and 18) in the Administration to make allowance for the additional officials who will be needed to carry out the new program. As passed the Senate, the bill did not contain this provision.

4. Provision of funds

As passed the Senate, the bill provided the sum of $250 million for the new program, making such sum available over a 3-year period through public-debt transactions the proceeds of which would constitute a new and separate revolving fund. As reported in the House, the bill also provides the sum of $250 million for the program; but it makes such sum available by increasing the amount authorized to be appropriated to the Administration's existing revolving fund and by earmarking the increased amount for the new program.

5. Purchase of small-business investment company stock by banks

As passed the Senate, the bill authorized the purchase of small-business investment company stock by banks, financial institutions, insurance companies, corporations, partnerships, and other persons, limiting the aggregate amount of such stock which may be held by a Federal Reserve member bank or an FDIC-insured bank to 1 percent of its capital and surplus. The corresponding provision of the bill as reported in the House is limited to banks. The extent to which other institutions could buy such stock would, of course, continue to be governed by other applicable law. The House bill adds new language to make it clear that the right of Federal Reserve member banks and FDIC-insured banks to purchase small-business investment company stock up to 1 percent of their capital and surplus is subject (except in the case of national banks) to the provisions and restrictions of applicable State law.

6. Authority to defer compliance with stock-purchase requirement

In requiring a small-business concern receiving capital under the bill to invest in the stock of the investment company furnishing the capital (in an amount equal to not less than 2 nor more than 5 percent of the capital so furnished), the bill as passed the Senate authorized the Administrator to permit such concern to postpone making its investment in such stock for a period of up to 3 years. The bill as reported in the House eliminates this authority to permit the postponement of the required investment.

7. Loans to small-business concerns on a participation basis

In authorizing long-term loans by small-business investment companies to small-business concerns, the Senate bill permitted such loans to be made either directly or on a participation basis. The bill as reported in the House adds new language limiting small-business investment company participation, where the loan is made on a deferred participation basis, to 90 percent of the balance of the loan outstanding at the time of disbursement.

8. Loans to local development companies

As passed the Senate, the bill authorized the Administration to make loans to State and local development companies in exchange for their obligations, to assist in carrying out the purposes of the act, with a termination date for loans to local development companies of June 30, 1961. The bill as reported in the House eliminates the authority to make such loans to local development companies. However, the authority to make secured loans to local development companies for plant construction or improvement is retained.

9. Priority of loans made to State development companies

As reported in the House, the bill provides that funds loaned to State development companies under the program referred to in the preceding paragraph must be treated on an equal basis with funds of the highest priority borrowed by such companies from other sources after the enactment of this bill, except when this requirement is waived by the Administrator. The bill as passed the Senate did not contain this provision.

10. Fund for management counseling

As passed the Senate, the bill repealed section 13b of the Federal Reserve Act (which authorizes working-capital loans to business concerns by Federal Reserve banks) and provided that amounts repaid to the United States by those banks as a result of such repeal shall be used to finance a new program of grants for management counseling under the Small Business Act. The bill as reported in the House eliminates the new management counseling program and provides that amounts repaid as a result of the repeal of section 13b shall be covered into the Treasury as miscellaneous receipts.

Section-by-Section Summary of the Bill as Reported

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

Section 101. Short title

This section provides that the act may be cited as the "Small Business Investment Act of 1958," and contains the table of contents.

Section 102. Statement of policy

This section declares it to be the policy of the Congress and the purpose of the act to improve and stimulate the national economy, and particularly the small-business segment thereof, by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for sound financing and for growth, expansion, and modernization, but which are not available in adequate supply. This program is to be carried out in such manner as to insure that private financing sources will participate to the maximum extent possible and that it will not result in increased unemployment in any area of the country.

Section 103. Definitions

This section contains definitions of terms used in the bill.

Paragraphs (1) and (2) define the terms "Administration" and "Administrator" to mean the Small Business Administration and its Administrator.

Paragraph (3) defines the terms "small-business investment company" and "company" to mean a small-business investment company organized under the bill, including any State-chartered company which is approved by the Administrator as a small-business investment company or converted into such a company pursuant to the provisions of the bill.

Paragraph (4) defines the term "United States" to mean the States and Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

Paragraph (5) provides that the term "small-business concern" means the same as it does in the Small Business Act.

Paragraph (6) defines the term "development companies" to mean enterprises incorporated under State law with authority to promote and assist the growth and development of small-business concerns.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Section 201. Establishment of Small Business Investment Division

This section establishes in the Small Business Administration a Small Business Investment Division, through which the Administrator would exercise the powers conferred by the bill. The new Division would be headed by a Deputy Administrator who would be appointed by the Administrator and receive the same compensation as the other deputy administrators of the Administration. In carrying out the new small-business investment program, the Administrator would have (in addition to the authority specifically provided by the bill) all of the functions, powers, and duties generally vested in him and in the Administration under the Small Business Act; and the provisions of that act imposing criminal penalties for false statements

and misappropriation, and requiring certain certifications and agreements as a condition of financial assistance, are made applicable to operations under the new program. Three new "supergrade" positions would be established within the Administration to make allowance for the additional officials required to carry out the new program.

Section 202. Provision and purposes of funds

Subsection (a) of this section makes available the sum of $250 million for carrying out the new small-business investment program, by increasing the total amount which is authorized to be appropriated to the existing Small Business Administration revolving fund and providing that $250 million of such total amount may be used only for the new program.

Subsection (b) authorizes the appropriation of amounts needed for the administrative expenses incurred in carrying out the program.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Section 301. Organization of small business investment companies

Subsection (a) of this section provides that, until June 30, 1961, small-business investment companies may be chartered by SBA to operate under the act. Ten or more persons would be required to subscribe to the articles of incorporation in order to form such a company.

Subsection (b) sets forth the information required to be specified in the articles of incorporation of such a company—its objectives, name, area of operation, principal office, capital stock, and other pertinent matters—and provides that such articles and any amendments thereto shall be subject to the approval of the Administration.

Subsection (c) sets forth the procedure under which the Administration would approve the articles of incorporation of such a company and issue it a permit to begin doing business, specifying some of the factors (the need for small-business financing in the area, the character of the proposed company, and the number and volume of business of similar companies previously organized) which must be taken into consideration in giving such approval.

Subsection (d) sets forth the powers of a small-business investment company, providing that such a company shall have power to use a corporate seal, to have succession for 30 years (unless extended as provided in the bill, or sooner dissolved), to make contracts, to sue and be sued, to appoint and dismiss officers and employees, to adopt bylaws, to establish branch offices, to deal in various ways with property, to act as a Government depository or fiscal agent, and to exercise other specified or necessarily incidental powers.

Subsection (e) provides that the board of directors of each such company shall consist of nine members elected annually by its shareholders.

Section 302. Capital stock and subordinated debentures

Subsection (a) of this section requires each small-business investment company to have a paid-in capital and surplus of $300,000 to begin doing business. Half of this amount could come from the purchase by the Administration of the company's debentures, which would be subordinate to any of the other obligations of the company.

Subsection (b) permits the purchase of stock in small-business investment companies by national banks, and by other Federal Reserve member banks and FDIC-insured banks when not prohibited by State law, up to an aggregate of 1 percent of the bank's capital and surplus.

Subsection (c) authorizes the Administration to limit the aggregate amount of small-business investment company stock which may be owned or controlled by any stockholder or group or class of stockholders.

Section 303. Borrowing power

Subsection (a) of this section authorizes small business investment companies to borrow money and issue obligations therefor, under limitations and regulations prescribed by the Administration.

Subsection (b) authorizes the Administration to lend funds to small-business investment companies by purchasing their obligations, in amounts not exceeding 50 percent (outstanding at any one time) of the paid-in capital and surplus of any such company.

Section 304. Provision of equity capital for small-business concerns

Subsection (a) of this section declares it to be a primary function of small-business investment companies to provide a source of needed equity capital for small-business concerns.

Subsection (b) describes the manner in which equity capital is to be furnished by small-business investment companies to small-business concerns under the program. It provides that such capital shall be furnished only through the purchase of debenture bonds, issued by such concerns, which contain terms fixed by the investment company and are callable (on 3 months' notice) at par plus accrued interest, and which are convertible at any time into stock of the small-business concern at the sound book value of such stock as determined at the time of the issuance of the debentures.

Subsection (c) authorizes any small-business investment company, before furnishing capital to a small-business concern, to require such concern to refinance any outstanding indebtedness and to agree not to incur any further indebtedness without first securing the approval of the investment company.

Subsection (d) requires a small-business concern, when receiving equity capital from a small-business investment company under the act, to invest in the stock of such company in an amount equal to not less than 2 nor more than 5 percent of the capital so furnished.

Section 305. Long-term loans to small-business concerns

Subsection (a) of this section authorizes small-business investment companies to make loans to small-business concerns (incorporated or unincorporated) to provide them with funds needed for sound financing, growth, modernization, and expansion.

Subsection (b) provides that such loans may be made either directly or on a participation basis, with participation by the investment company limited to 90 percent in the case of a loan made on a deferred participation basis.

Subsection (c) authorizes the Administration to set the maximum rate of interest on such loans.

Subsection (d) provides a maximum maturity of 20 years for such loans.

Subsection (e) requires that each such loan be of such sound value or so secured as reasonably to assure repayment.

Subsection (f) authorizes the investment company to extend or renew any such loan for up to 10 years if necessary to aid in its orderly liquidation.

Section 306. Aggregate limitations

This section provides that the amount of assistance which a small-business investment company may furnish to any one small-business concern may not exceed 20 percent of the company's authorized capital and surplus, except with the approval of the Administration.

Section 307. Exemptions

Subsection (a) of this section authorizes the Securities and Exchange Commission to exempt any class of a small-business investment company's securities from the registration and other requirements of the Securities Act of 1933.

Subsection (b) authorizes such Commission to allow a corresponding exemption from the requirements of the Trust Indenture Act of 1939.

Subsection (c) exempts small-business investment companies from certain provisions of the Investment Company Act of 1940 which require 300 percent asset coverage for indebtedness.

Section 308. Miscellaneous

Subsection (a) of this section provides that wherever practicable small-business investment companies shall perform their functions in cooperation with banks and other financial institutions, rendering services to and obtaining services from such institutions on a fee basis.

Subsection (b) authorizes small-business investment companies to utilize the advisory services of the Federal Reserve System and the Department of Commerce, to provide consulting and advisory services on a fee basis, to utilize Federal Reserve banks as depositories and fiscal agents, and to invest any funds not currently needed in Government obligations.

Subsection (c) authorizes the Administration to prescribe regulations to carry out the program, to make examinations of small-business investment companies, and to require periodic reports from such companies.

Subsection (d) provides for the dissolution and forfeiture, through an action brought in a United States court at the instance of the Administration or the Attorney General, of any small-business investment company which violates or fails to comply with the act or any regulations issued thereunder.

Subsection (e) authorizes the Administration, upon determining that a violation of or noncompliance with any of the provisions of the act or of regulations issued thereunder is occurring or is likely to occur, to secure an injunction against such violation or an order enforcing compliance with such provision in the appropriate United States district court.

Subsection (f) provides that the shareholders of a small business investment company, by a two-thirds vote and with the approval of the Administration, may extent the period of such company's corporate existence (30 years from the time of its formation) by an additional period of up to 30 years, subject to earlier dissolution or forfeiture of its franchise as provided in the act.

Subsection (g) makes it clear that the United States has no liability with respect to any of the obligations, securities, or commitments of a small-business investment company.

Section 309. Approving State-chartered companies for operations under the act

This section provides that any investment company chartered under State law expressly for the purpose of operating under the act may do so if the Administrator (having due regard to the factors specified in connection with the formation of federally chartered small-business companies) gives his approval; and any State-chartered company so approved would have the same status in all respects as a small-business investment company originally chartered under the act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

Section 401

Subsection (a) of this section provides that a majority of the shareholders of any investment company or State development company (subject to applicable State law) may, at any time before July 1961 and with the approval of the Administration, convert such company into a small-business investment company under the act.

Subsection (b) provides for the execution by such company's directors of the articles of association and the organization certificate, and provides that such directors shall execute such other papers and take such other action as may be necessary to perfect and complete the company's organization as a small-business investment company. The company's shares of stock would be for the same amount after the conversion as before, and its directors would continue in office until an election is held under regulations of the Administration.

Subsection (c) confers upon such a company, after it has received from the Administration a certificate of compliance with the provisions of the act, the same status in all respects as a small-business investment company originally organized under the act.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Section 501

Subsection (a) of this section authorizes the Administration to make loans to State development companies to assist in carrying out the purposes of the act, in exchange for obligations containing such such terms as the Administration may fix, without regard to the use and investment by such companies of their other funds.

Subsection (b) provides that the amount which may be borrowed by a State development company from the Administration under subsection (a) may not exceed the total amount borrowed by it from all other sources. It also requires that funds borrowed by such a company from the Administration be treated on an equal basis with funds of the highest priority hereafter borrowed by the company from other sources, except when this requirement is waived by the Administrator.

Section 502

This section authorizes the Administration to make loans (in addition to those made under sec. 501 in exchange for development company obligations) to both State and local development companies for plant construction, acquisition, or expansion (including the acquisition of land). Such loans could be made either directly or on a participation basis, with the Administration's participation limited to 90 percent in the case of a loan made on a deferred participation basis, and must be so secured as reasonably to assure repayment. The proceeds of each such loan would be required to be used by the development company to assist an identifiable small-business concern for a sound business purpose, and would be limited to $250,000 for each such concern. Any such development company would have to meet criteria established by the Administration. The interest rate on such loans would be fixed by the Administration. The maximum maturity would be 10 years plus any additional period necessary to complete construction, and plus a further period of up to 10 years when necessary for the orderly liquidation of the loan. The authority to make such loans to local development companies would terminate June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Section 601. Repeal of section 13b of the Federal Reserve Act

This section (effective 1 year after date of enactment) repeals section 13b of the Federal Reserve Act, which authorizes working-capital loans to business concerns by Federal Reserve banks, subject to a reservation to such banks of the power to carry out and protect their interest in transactions heretofore entered into.

Section 602. Transfer of funds

Subsection (a) of this section directs the Federal Reserve banks, within 60 days after date of enactment, to pay to the United States all amounts heretofore advanced to them by the Secretary of the Treasury for operations under section 13b of the Federal Reserve Act. Such payment would constitute a full discharge of their liability to the United States under that section.

Subsection (b) provides that amounts so repaid to the United States shall be covered into the Treasury as miscellaneous receipts.

TITLE VII—CRIMINAL PENALTIES

Section 701

This section amends title 18 of the United States Code to make it a crime for any officer, director, or employee of a small-business investment company to make a loan to an examiner of such company, or for such examiner to accept such a loan.

Section 702

This section amends title 18 of the United States Code to make it a crime for any officer, director, or employee of a small-business investment company to receive a fee, gift, or commission (other than as compensation for services rendered) for any transaction of the company, or to cause or procure such a company to charge or receive any unauthorized fee, gift, or other consideration.

Section 703

This section amends title 18 of the United States Code to make it a crime for any officer, agent, or employee of a small-business investment company to embezzle or willfully misapply any of such company's funds, securities, or other things of value.

Section 704

This section amends title 18 of the United States Code to make it a crime for any officer, agent, or employee of a small-business investment company, with intent to defraud, to make a false entry in the company records or to engage in certain unauthorized transactions.

Section 705

This section amends title 18 of the United States Code to make it a crime for any person knowingly to make any false statement or report or willfully to overvalue any property or security for the purpose of influencing the action of a small-business investment company.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as passed by the Senate, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Section 3 of the Securities Act of 1933

(15 U. S. C. 77c)

EXEMPTED SECURITIES

Sec. 3. (a) Except as hereinafter expressly provided, the provisions of this title shall not apply to any of the following classes of securities:

(1) Any security which, prior to or within sixty days after the enactment of this title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of any such security by an issuer or underwriter subsequent to such sixty days;

(2) Any security issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or any certificate of deposit for any of the foregoing, or any security issued or guaranteed by any national bank, or by any banking institution organized under the laws of any State or Territory or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or Territorial banking commission or similar official; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve Bank;

(3) Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which

have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited;

(4) Any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual;

(5) Any security issued by a building and loan association, homestead association, savings and loan association, or similar institution, substantially all the business of which is confined to the making of loans to members (but the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security), or any security issued by a farmers' cooperative association as defined in paragraphs (12), (13), and (14) of section 103 of the Revenue Act of 1932;

(6) Any security issued by a common or contract carrier, the issuance of which is subject to the provisions of section 20a of the Interstate Commerce Act, as amended:

(7) Certificates issued by a receiver or by a trustee in bankruptcy, with the approval of the court;

(8) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia:

(9) Any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange;

(10) Any security which is issued in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where the terms and conditions of such issuance and exchange are approved, after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear, by any court, or by any official or agency of the United States, or by any State or Territorial banking or insurance commission or other governmental authority expressly authorized by law to grant such approval;

(11) Any security which is a part of an issue *offered and* sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory.

(b) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and

for the protection of investors by reason of the small amount involved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds $300,000.

(c) *The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors.*

Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd)

EXEMPTED SECURITIES AND TRANSACTIONS

Sec. 304. (a) The provisions of this title shall not apply to any of the following securities:

(1) any security other than (A) a note, bond, debenture, or evidence of indebtedness, whether or not secured, or (B) a certificate of interest or participation in any such note, bond, debenture, or evidence of indebtedness, or (C) a temporary certificate for, or guarantee of, any such note, bond, debenture, evidence of indebtedness, or certificate;

(2) any certificate of interest or participation in two or more securities having substantially different rights and privileges, or a temporary certificate for any such certificate;

(3) any security which, prior to or within six months after the enactment of this title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of any such security by an issuer subsequent to such six months;

(4) any security exempted from the provisions of the Securities Act of 1933, as heretofore amended, by paragraph (2), (3), (4), (5), (6), (7), (8), or (11) of subsection 3 (a) thereof;

(5) any security issued under a mortgage indenture as to which a contract of insurance under the National Housing Act is in effect; and any such security shall be deemed to be exempt from the provisions of the Securities Act of 1933 to the same extent as though such security were specifically enumerated in section 3 (a) (2) of such Act;

(6) any note, bond, debenture, or evidence of indebtedness issued or guaranteed by a foreign government or by a subdivision, department, municipality, agency, or instrumentality thereof;

(7) any guarantee of any security which is exempted by this subsection;

(8) any security which has been or is to be issued otherwise than under an indenture, but this exemption shall not be applied within a period of twelve consecutive months to more than $250,000 aggregate principal amount of any securities of the same issuer; or

(9) any security which has been or is to be issued under an indenture which limits the aggregate principal amount of securities at any time outstanding thereunder to $1,000,000 or less, but this exemption shall not be applied within a period of thirty-six consecutive months to more than $1,000,000 aggregate principal amount of securities of the same issuer.

In computing the aggregate principal amount of securities to which the exemptions provided by paragraphs (8) and (9) may be applied, securities to which the provisions of sections 305 and 306 would not have applied, irrespective of the provisions of those paragraphs, shall be disregarded.

(b) The provisions of sections 305 and 306 shall not apply (1) to any of the transactions exempted from the provisions of section 5 of the Securities Act of 1933 by section 4 thereof, or (2) to any transaction which would be so exempted but for the last sentence of paragraph (11) of section 2 of such Act.

(c) The Commission shall, on application by the issuer and after opportunity for hearing thereon, by order exempt from any one or more provisions of this title any security issued or proposed to be issued under any indenture under which, at the time such application is filed, securities referred to in paragraph (3) of subsection (a) of this section are outstanding, if and to the extent that the Commission finds that compliance with such provision or provisions, through the execution of a supplemental indenture or otherwise—

(1) would require, by reason of the provisions of such indenture, or the provisions of any other indenture or agreement made prior to the enactment of this title, or the provisions of any applicable law, the consent of the holders of securities outstanding under any such indenture or agreement; or

(2) would impose an undue burden on the issuer, having due regard to the public interest and the interests of investors.

(d) The Commission may, on application by the issuer and after opportunity for hearing thereon, by order exempt from any one or more of the provisions of this title any security issued or proposed to be issued by a person organized and existing under the laws of a foreign government or a political subdivision thereof, if and to the extent that the Commission finds that compliance with such provision or provisions is not necessary in the public interest and for the protection of investors.

(*e*) *The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors.*

SECTION 18 OF THE INVESTMENT COMPANY ACT OF 1940 (15 U. S. C. 80a–18)

CAPITAL STRUCTURE

SEC. 18. (a) It shall be unlawful for any registered closed-end company to issue any class of senior security, or to sell any such security of which it is the issuer, unless—

(1) if such class of senior security represents an indebtedness—

(A) immediately after such issuance or sale, it will have an asset coverage of at least 300 per centum;

(B) provision is made to prohibit the declaration of any dividend (except a dividend payable in stock of the issuer), or the declaration of any other distribution, upon any class of the capital stock of such investment company, or the purchase of any such capital stock, unless, in every such case, such class of senior securities has at the time of the declaration of any such dividend or distribution or at the time of any such purchase an asset coverage of at least 300 per centum after deducting the amount of such dividend, distribution, or purchase price, as the case may be, except that dividends may be declared upon any preferred stock if such senior security representing indebtedness has an asset coverage of at least 200 per centum at the time of declaration thereof after deducting the amount of such dividend; and

(C) provision is made either—

(i) that, if on the last business day of each of twelve consecutive calendar months such class of senior securities shall have an asset coverage of less than 100 per centum, the holders of such securities voting as a class shall be entitled to elect at least a majority of the members of the board of directors of such registered company, such voting right to continue until such class of senior security shall have an asset coverage of 110 per centum or more on the last business day of each of three consecutive calendar months, or

(ii) that, if on the last business day of each of twenty-four consecutive calendar months such class of senior securities shall have an asset coverage of less than 100 per centum, an event of default shall be deemed to have occurred;

(2) if such class of senior security is a stock—

(A) immediately after such issuance or sale it will have an asset coverage of at least 200 per centum;

(B) provision is made to prohibit the declaration of any dividend (except a dividend payable in common stock of the issuer), or the declaration of any other distribution, upon the common stock of such investment company, or the purchase of any such common stock, unless in every such case such class of senior security has at the time of the declaration of any such dividend or distribution or at the time of any such purchase an asset coverage of at least 200 per

centum after deducting the amount of such dividend, distribution or purchase price, as the case may be;

(C) provision is made to entitle the holders of such senior securities, voting as a class, to elect at least two directors at all times, and, subject to the prior rights, if any, of the holders of any other class of senior securities outstanding, to elect a majority of the directors if at any time dividends on such class of securities shall be unpaid in an amount equal to two full years' dividends on such securities, and to continue to be so represented until all dividends in arrears shall have been paid or otherwise provided for;

(D) provision is made requiring approval by the vote of a majority of such securities, voting as a class, of any plan of reorganization adversely affecting such securities or of any action requiring a vote of security holders as in section 13 (a) provided; and

(E) such class of stock shall have complete priority over any other class as to distribution of assets and payment of dividends, which dividends shall be cumulative.

(b) The asset coverage in respect of a senior security provided for in subsection (a) may be determined on the basis of values calculated as of a time within forty-eight hours (not including Sundays or holidays) next preceding the time of such determination. The time of issue or sale shall, in the case of an offering of such securities to existing stockholders of the issuer, be deemed to be the first date on which such offering is made, and in all other cases shall be deemed to be the time as of which a firm commitment to issue or sell and to take or purchase such securities shall be made.

(c) Notwithstanding the provisions of subsection (a) it shall be unlawful for any registered closed-end investment company to issue or sell any senior security representing indebtedness if immediately thereafter such company will have outstanding more than one class of senior security representing indebtedness, or to issue or sell any senior security which is a stock if immediately thereafter such company will have outstanding more than one class of senior security which is a stock, except that (1) any such class of indebtedness or stock may be issued in one or more series: *Provided*, That no such series shall have a preference or priority over any other series upon the distribution of the assets of such registered closed-end company or in respect of the payment of interest or dividends, and (2) promissory notes or other evidences of indebtedness issued in consideration of any loan, extension, or renewal thereof, made by a bank or other person and privately arranged, and not intended to be publicly distributed, shall not be deemed to be a separate class of senior securities representing indebtedness within the meaning of this subsection (c).

(d) It shall be unlawful for any registered management company to issue any warrant or right to subscribe to or purchase a security of which such company is the issuer, except in the form of warrants or rights to subscribe expiring not later than one hundred and twenty days after their issuance and issued exclusively and ratably to a class or classes of such company's security holders; except that any warrant may be issued in exchange for outstanding warrants in connection with a plan of reorganization.

(e) The provisions of this section 18 shall not apply to any senior securities issued or sold by any registered closed-end company—

(1) pursuant to any firm contract to purchase or sell entered into prior to March 15, 1940;

(2) for the purpose of refunding through payment, purchase, redemption, retirement, or exchange, any senior security of such registered investment company except that no senior security representing indebtedness shall be so issued or sold for the purpose of refunding any senior security which is a stock; or

(3) pursuant to any plan of reorganization (other than for refunding as referred to in subsection (e) (2)), provided—

(A) that such senior securities are issued or sold for the purpose of substituting or exchanging such senior securities for outstanding senior securities, and if such senior securities represent indebtedness they are issued or sold for the purpose of substituting or exchanging such senior securities for outstanding senior securities representing indebtedness, of any registered investment company which is a party to such plan of reorganization; or

(B) that the total amount of such senior securities so issued or sold pursuant to such plan does not exceed the total amount of senior securities of all the companies which are parties to such plan, and the total amount of senior securities representing indebtedness so issued or sold pursuant to such plan does not exceed the total amount of senior securities representing indebtedness of all such companies, or, alternatively, the total amount of such senior securities so issued or sold pursuant to such plan does not have the effect of increasing the ratio of senior securities representing indebtedness to the securities representing stock or the ratio of senior securities representing stock to securities junior thereto when compared with such ratios as they existed before such reorganization.

(f) (1) It shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer, except that any such registered company shall be permitted to borrow from any bank: *Provided*, That immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of such registered company: *And provided further*, That in the event that such asset coverage shall at any time fall below 300 per centum such registered company shall, within three days thereafter (not including Sundays and holidays) or such longer period as the Commission may prescribe by rules and regulations, reduce the amount of its borrowings to an extent that the asset coverage of such borrowings shall be at least 300 per centum.

(2) "Senior security" shall not, in the case of a registered open-end company include a class or classes or a number of series of preferred or special stock each of which is preferred over all other classes or series in respect of assets specifically allocated to that class or series: *Provided*, (A) That such company has outstanding no class or series of stock which is not so preferred over all other classes or series; or (B) that the only other outstanding class of the issuer's stock consists of a common stock upon which no dividend (other than a liquidating dividend) is permitted to be paid and which in the

aggregate represents not more than one-half of 1 per centum of the issuer's outstanding voting securities.

(g) Unless otherwise provided: "Senior security" means any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends; and "senior security representing indebtedness" means any senior security other than stock.

The term "senior security", when used in subparagraphs (B) and (C) of paragraph (1) of subsection (a), shall not include any promissory note or other evidence of indebtedness issued in consideration of any loan, extension, or renewal thereof, made by a bank or other person and privately arranged, and not intended to be publicly distributed; nor shall such term, when used in this section 18, include any such promissory note or other evidence of indebtedness in any case where such a loan is for temporary purposes only and in an amount not exceeding 5 per centum of the value of the total assets of the issuer at the time when the loan is made. A loan shall be presumed to be for temporary purposes if it is repaid within sixty days and is not extended or renewed; otherwise it shall be presumed not to be for temporary purposes. Any such presumption may be rebutted by evidence.

(h) "Asset coverage" of a class of senior security representing an indebtedness of an issuer means the ratio which the value of the total assets of such issuer, less all liabilities and indebtedness not represented by senior securities, bears to the aggregate amount of senior securities representing indebtedness of such issuer. "Asset coverage" of a class of senior security of an issuer which is a stock means the ratio which the value of the total assets of such issuer, less all liabilities and indebtedness not represented by senior securities, bears to the aggregate amount of senior securities representing indebtedness of such issuer plus the aggregate of the involuntary liquidation preference of such class of senior security which is a stock. The involuntary liquidation preference of a class of senior security which is a stock shall be deemed to mean the amount to which such class of senior security would be entitled on involuntary liquidation of the issuer in preference to a security junior to it.

(i) Except as provided in subsection (a) of this section, or as otherwise required by law, every share of stock hereafter issued by a registered management company (except a common-law trust of the character described in section 16 (b)) shall be a voting stock and have equal voting rights with every other outstanding voting stock: *Provided*, That this subsection shall not apply to shares issued pursuant to the terms of any warrant or subscription right outstanding on March 15, 1940, or any firm contract entered into before March 15, 1940, to purchase such securities from such company nor to shares issued in accordance with any rules, regulations, or orders which the Commission may make permitting such issue.

(j) Notwithstanding any provision of this title, it shall be unlawful, after the date of enactment of this title, for any registered face-amount certificate company—

(1) to issue, except in accordance with such rules, regulations, or orders as the Commission may prescribe in the public interest or as necessary or appropriate for the protection of investors, any

security other than (A) a face-amount certificate; (B) a common stock having a par value and being without preference as to dividends or distributions and having at least equal voting rights with any outstanding security of such company; or (C) short-term payment or promissory notes or other indebtedness issued in consideration of any loan, extension, or renewal thereof, made by a bank or other person and privately arranged and not intended to be publicly offered;

(2) if such company has outstanding any security, other than such face-amount certificates, common stock, promissory notes, or other evidence of indebtedness, to make any distribution or declare or pay any dividend on any capital security in contravention of such rules and regulations or orders as the Commission may prescribe in the public interest or as necessary or appropriate for the protection of investors or to insure the financial integrity of such company, to prevent the impairment of the company's ability to meet its obligations upon its face-amount certificates; or

(3) to issue any of its securities except for cash or securities including securities of which such company is the issuer.

(*k*) *The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958.*

Section 13b of the Federal Reserve Act

(12 U. S. C. 352a)

[Sec. 13b (a) In exceptional circumstances, when it appears to the satisfaction of a Federal Reserve bank that an established industrial or commercial business located in its district is unable to obtain requisite financial assistance on a reasonable basis from the usual sources, the Federal Reserve bank, pursuant to authority granted by the Board of Governors of the Federal Reserve System, may make loans to, or purchase obligations of, such business, or may make commitments with respect thereto, on a reasonable and sound basis, for the purpose of providing it with working capital, but no obligation shall be acquired or commitment made hereunder with a maturity exceeding five years.

[(b) Each Federal Reserve bank shall also have power to discount for, or purchase from, any bank, trust company, mortgage company, credit corporation for industry, or other financing institution operating in its district, obligations having maturities not exceeding five years, entered into for the purpose of obtaining working capital for any such established industrial or commercial business; to make loans or advances direct to any such financing institution on the security of such obligations; and to make commitments with regard to such discount or purchase of obligations or with respect to such loans or advances on the security thereof, including commitments made in advance of the actual undertaking of such obligations. Each such financing institution shall obligate itself to the satisfaction of the Federal Reserve bank for at least 20 per centum of any loss which may be sustained by such bank upon any of the obligations acquired

from such financing institution, the existence and amount of any such loss to be determined in accordance with regulations of the Board of Governors of the Federal Reserve System: *Provided*, That in lieu of such obligations against loss any such financing institution may advance at least 20 per centum of such working capital for any established industrial or commercial business without obligating itself to the Federal Reserve bank against loss on the amount advanced by the Federal Reserve bank: *Provided, however*, That such advances by the financing institution and the Federal Reserve bank shall be considered as one advance, and repayment shall be made pro rata under such regulations as the Board of Governors of the Federal Reserve System may prescribe.

[(c) The aggregate amount of loans, advances, and commitments of the Federal Reserve banks outstanding under this section at any one time, plus the amount of purchases and discounts under this section held at the same time, shall not exceed the combined surplus of the Federal Reserve banks as of July 1, 1934, plus all amounts paid to the Federal Reserve banks by the Secretary of the Treasury under subsection (e) of this section, and all operations of the Federal Reserve banks under this section shall be subject to such regulations as the Board of Governors of the Federal Reserve System may prescribe.

[(d) For the purpose of aiding the Federal Reserve banks in carrying out the provisions of this section, there is established in each Federal Reserve district an industrial advisory committee, to be appointed by the Federal Reserve bank subject to the approval and regulations of the Board of Governors of the Federal Reserve System, and to be composed of not less than three nor more than five members as determined by the Board of Governors of the Federal Reserve System. Each member of such committee shall be actively engaged in some industrial pursuit within the Federal Reserve district in which the committee is established, and each such member shall serve without compensation but shall be entitled to receive from the Federal Reserve bank of such district his necessary expenses while engaged in the business of the committee, or a per diem allowance in lieu thereof to be fixed by the Board of Governors of the Federal Reserve System. Each application for any such loan, advance, purchase, discount, or commitment shall be submitted to the appropriate committee and, after an examination by it of the business with respect to which the application is made, the application shall be transmitted to the Federal Reserve bank, together with the recommendation of the committee.

[(e) In order to enable the Federal Reserve banks to make the loans, discounts, advances, purchases, and commitments provided for in this section, the Secretary of the Treasury, on and after June 19, 1934, is authorized, under such rules and regulations as he shall prescribe, to pay to each Federal Reserve bank not to exceed such portion of the sum of $139,299,557 as may be represented by the amount paid by each Federal Reserve bank for stock of the Federal Deposit Insurance Corporation, upon the execution by each Federal Reserve bank of its agreement (to be endorsed on the certificate of such stock) to hold such stock unencumbered and to pay to the United States all dividends, all payments on liquidation, and all other proceeds of such stock, for which dividends, payments, and proceeds the United States

shall be secured by such stock itself up to the total amount paid to each Federal Reserve bank by the Secretary of the Treasury under this section. Each Federal Reserve bank, in addition, shall agree that, in the event such dividends, payments, and other proceeds in any calendar year do not aggregate 2 per centum of the total payment made by the Secretary of the Treasury, under this section, it will pay to the United States in such year such further amount, if any, up to 2 per centum of the said total payment, as shall be covered by the net earnings of the bank for that year derived from the use of the sum so paid by the Secretary of the Treasury, and that for said amount so due the United States shall have a first claim against such earnings and stock, and further that it will continue such payments until the final liquidation of said stock by the Federal Deposit Insurance Corporation. The sum so paid to each Federal Reserve bank by the Secretary of the Treasury shall become a part of the surplus fund of such Federal Reserve bank within the meaning of this section. All amounts required to be expended by the Secretary of the Treasury in order to carry out the provisions of this section shall be paid out of the miscellaneous receipts of the Treasury created by the increment resulting from the reduction of the weight of the gold dollar under the President's proclamation of January 31, 1934; and there is appropriated, out of such receipts, such sum as shall be required for such purpose.]

Section 207 of the Small Business Act of 1953

Sec. 207. (a) The Administration is empowered to make loans to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or essential civilian production or as may be necessary to insure a well-balanced national economy; and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) No financial assistance shall be extended pursuant to (a) above unless the financial assistance applied for is not otherwise available on reasonable terms and all loans made shall be of such sound value or so secured as reasonably to assure repayment; no immediate participation may be purchased unless it is shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.

(2) No loan shall be extended pursuant to (a) above if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this title would exceed $250,000, and no loan, including renewals or extensions thereof, may be made for a period or periods exceeding ten years, except that any loan made for the purpose of constructing industrial facilities may have a maturity of ten years plus such additional period as is estimated may be required to complete such construction, and any such loan shall bear interest at the rate prevailing in the area where the money

loaned is to be used but shall not exceed 6 per centum per annum: *Provided*, That for foregoing limitation of $250,000 shall not apply to any loan extended to any corporation formed and capitalized by a group of small business concerns with resources provided by them for the purpose of establishing facilities in and through such corporation to produce or secure raw materials or supplies: *Provided further*, That for any such corporation the limit of any loan extended or made as provided for in this section shall be $250,000 multiplied by the number of separate small businesses which have formed and capitalized a corporation as hereinbefore provided for in this section, and if a loan to such corporation is for the purpose of constructing facilities, then the loan may have a maturity not to exceed twenty years plus such additional time as is required to complete such construction and at an interest rate of not less than 3 nor more than 5 per centum per annum: *And provided further*, That no act or omission to act pursuant to this section, if found and approved by the Small Business Administration as contributing to the needs of small business, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. A copy of the statement of any such finding and approval intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register. The authority granted in the last preceding proviso shall be delegated only (1) to an official who shall for the purpose of such delegation be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be appointed, (2) upon the condition that such official consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making and stating any such finding and approval as is authorized in this subsection (a), and (3) upon the condition that such official obtain a statement in writing from the Attorney General that he, mindful of the antitrust laws and the public interest, concurs in the finding and approval made and granted by the Small Business Administration. Upon withdrawal of any finding or approval made hereunder the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or approval. The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act. The Attorney General shall submit to the Congress and the President within ninety days after approval of this Act, and at such times thereafter as he deems desirable, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(3) In agreements to participate in loans on a deferred basis under this subsection or under subsection (b) (1) of this section, such participation by the Administration shall not be in excess

of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(b) The Administration also is empowered—

(1) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate because of floods or other catastrophes, including necessary or appropriate loans to any small-business concern located in an area where a drought is occurring, if the Administration determines that the small-business concern has suffered a substantial economic injury as a result of such drought, and the President has determined under the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U. S. C., secs. 1855–1855g), that such drought is a major disaster, or the Secretary of Agriculture has found under the Act entitled "An Act to abolish the Regional Agricultural Credit Corporation of Washington, District of Columbia, and transfer its functions to the Secretary of Agriculture, to authorize the Secretary of Agriculture to make disaster loans, and for other purposes", approved April 6, 1949, as amended (12 U. S. C., secs. 1148a–1–1148a–3), that such drought constitutes a production or economic disaster in such area: *Provided*, That no such loan including renewals and extensions thereof may be made for a period or periods exceeding twenty years: *And provided further*, That the interest rate on the Administration's share of loans made under this paragraph shall not exceed 3 per centum per annum;

(2) to enter into contracts with United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, or materials to the Government;

(3) to arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small-business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts;

(4) to provide technical and managerial aids to small-business concerns, by advising and counseling on matters in connection with Government procurement and on policies, principles, and practices of good management, including but not limited to cost accounting, methods of financing, business insurance, accident control, wage incentives and methods engineering, by cooperating and advising with voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions and with other Federal and State agencies, by maintaining a clearinghouse for information concerning the managing, financing, and operation of small-business enterprises, by disseminating such information, and by such other activities as are deemed appropriate by the Administration; and

(5) to further extend the maturity of or renew any loan made pursuant to this section, beyond the periods stated therein, or

any loan transferred to the Administration pursuant to Reorganization Plan Numbered 2 of 1954, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan.

(c) *The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agricultural studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of subsection (b) (4) of this section by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958.*

Title 18 of the United States Code

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CHAPTER 11.—BRIBERY AND GRAFT

Sec.

201. Offer to officer or other person.
202. Acceptance or solicitation by officer or other person.
203. Acceptance or demand by district attorneys or marshals or their assistants.
204. Offer to Member of Congress.
205. Acceptance by Member of Congress.
206. Offer to judge or judicial officer.
207. Acceptance by judge.
208. Acceptance or solicitation by judicial officer.
209. Offer to witness.
210. Acceptance by witness.
211. Offer of gratuity to revenue officer.
212. Offer or threat to customs officer or employee.
213. Acceptance or demand by customs officer or employee.
214. Offer to procure appointive public office.
215. Acceptance or solicitation to obtain appointive public office.
216. Procurement of contract by officer or Member of Congress.
217. Offer of loan or gratuity to bank examiner.
218. Acceptance of loan or gratuity by bank examiner.
219. Offer for procurement of Federal Reserve bank loan and discount of commercial paper.
220. Receipt of commissions or gifts for procuring loans.
221. Receipt or charge of commission or gifts for [farm loan or land bank] *farm loan, land bank, or small business* transactions.
222. Acceptance of consideration for adjustment of farm indebtedness.
223. Home Owners' Loan Corporation transactions.

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Sec. 217. Offer of loan or gratuity to bank examiner.

Whoever, being an officer, director or employee of a bank which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any National Agricultural Credit Corporation, or of any land bank, national farm loan association or other institution subject to examination by a farm credit examiner, *or of any small business investment*

company, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than $5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

* * * * * * *

SEC. 218. Acceptance of loan or gratuity by bank examiner.

Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or banks the deposit of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, *or an examiner of small business investment companies*, accepts a loan or gratuity from any bank, corporation, association or organization examined by him or from any person connected therewith, shall be fined not more than $5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner.

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SEC. 221. Receipt or charge of commissions or gifts for [farm loan or land bank] *farm loan, land bank, or small business* transactions.

Whoever, being an officer, director, attorney, or employee of a national farm loan association, a Federal land bank, or a joint-stock land bank, organized or acting under authority of any law of the United States, *or a small business investment company*, is a beneficiary of or receives, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank, other than the usual salary or director's fee paid to such officer, director, or employee thereof, and a reasonable fee paid by such association or bank to such officer, director, attorney, or employee for services rendered, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

Whoever causes or procures any Federal land bank, joint-stock land bank or national farm loan association, organized under any Act of Congress, *or any small business investment company*, to charge or receive any fee, commission, bonus, gift, or other consideration not specifically authorized, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

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SEC. 657. Lending, credit and insurance institutions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institu-

tion the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, *or any small business investment company*, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

* * * * * * *

SEC. 1006. Federal credit institution entries, reports and transactions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, *or any small business investment company*, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

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SEC. 1014. Loan and credit applications generally; renewals and discounts; crop insurance.

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Reconstruction Finance Corporation, Farm Credit Administration, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any Federal intermediate credit bank, or the Federal Farm Mortgage Corporation, or any division, officer, or employee thereof, or of any corporation organized under sections 1131–1134m of title 12, or of any regional agricultural credit

corporation established pursuant to law, or of the National Agricultural Credit Corporation, a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Savings and Loan Association, a Federal land bank, a joint-stock land bank, a National farm loan association, or of a Federal Reserve Bank, *or of a small business investment company,* upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

○

Union Calendar No. 842

85TH CONGRESS
2D SESSION

S. 3651

[Report No. 2060]

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1958

Referred to the Committee on Banking and Currency

JUNE 30, 1958

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, STATEMENT OF ~~PURPOSE,~~ *POLICY*, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958".

~~TABLE OF CONTENTS~~

~~TITLE I—SHORT TITLE, STATEMENT OF POLICY AND DEFINITIONS~~

~~Sec. 101. Short title.~~
~~Sec. 102. Statement of policy.~~
~~Sec. 103. Definitions.~~

~~TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION~~

~~Sec. 201. Establishment of Small Business Investment Division.~~
~~Sec. 202. Provision of funds.~~
~~Sec. 203. Purposes of revolving fund.~~

~~TITLE III—SMALL BUSINESS INVESTMENT COMPANIES~~

~~Sec. 301. Organization of small business investment companies.~~
~~Sec. 302. Capital stock and subordinated debentures.~~
~~Sec. 303. Borrowing power.~~
~~Sec. 304. Provision of equity capital for small-business concerns.~~
~~Sec. 305. Long-term loans to small-business concerns.~~
~~Sec. 306. Aggregate limitations.~~
~~Sec. 307. Exemptions.~~
~~Sec. 308. Miscellaneous.~~
~~Sec. 309. Approving State chartered companies for operations under this Act.~~

~~TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES~~

~~TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES~~

~~TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY~~

~~Sec. 601. Repeal of section 13b of Federal Reserve Act.~~
~~Sec. 602. Fund for management counseling.~~

~~TITLE VII—CRIMINAL PENALTIES~~

TABLE OF CONTENTS

Title I—Short Title, Statement of Policy, and Definitions

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

Title II—Small Business Investment Division of the Small Business Administration

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision and purposes of funds.

Title III—Small Business Investment Companies

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this Act.

Title IV—Conversion of State Chartered Investment Companies and State Development Companies

Title V—Loans to State and Local Development Companies

Title VI—Changes in Federal Reserve Authority

Sec. 601. Repeal of section 13b of the Federal Reserve Act.
Sec. 602. Transfer of funds.

Title VII—Criminal Penalties

1 STATEMENT OF POLICY

2 SEC. 102. It is declared to be the policy of the Congress
3 and the purpose of this Act to improve and stimulate the
4 national economy in general and the small-business segment
5 thereof in particular by establishing a program to stimulate
6 and supplement the flow of private equity capital and long-
7 term loan funds which small-business concerns need for the
8 sound financing of their business operations and for their
9 growth, expansion, and modernization, and which are not
10 available in adequate supply: *Provided, however,* That this
11 policy shall be carried out in such manner as to insure the
12 maximum participation of private financing sources.

13 It is the intention of the Congress that the provisions
14 of this Act shall be so administered that any financial as-
15 sistance provided hereunder shall not result in a substantial
16 increase of unemployment in any area of the country.

17 DEFINITIONS

18 SEC. 103. ~~(a)~~ As used in this Act—

19 (1) the term "Administration" means the Small
20 Business Administration;

21 (2) the term "Administrator" means the Adminis-
22 trator of the Small Business Administration;

23 ~~(3) the term "company" means a small business~~
24 ~~investment company organized as provided in title III;~~

25 *(3) the terms "small business investment company"*

and "company" mean a small business investment company organized as provided in title III, including a State investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small business investment company under section 401 of this Act;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term "small-business concern" shall have the same meaning as in the Small Business Act ~~of 1953~~; *and*

~~(6) the term "investment companies" means investment companies as defined in section 3 of the Investment Company Act of 1940 which are subject to the provisions of that Act; and~~

~~(7)~~ *(6)* the term "~~State and local~~ development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

1 TITLE II—SMALL BUSINESS INVESTMENT
2 DIVISION OF THE SMALL BUSINESS AD-
3 MINISTRATION

4 ESTABLISHMENT OF SMALL BUSINESS INVESTMENT
5 DIVISION

6 SEC. 201. There is hereby established in the Small Busi-
7 ness Administration a division to be known as the Small
8 Business Investment Division. The Division shall be headed
9 by a Deputy Administrator who shall be appointed by the
10 Administrator, and shall receive compensation at the rate
11 provided by law for other deputy administrators of the Small
12 Business Administration. The powers conferred by this Act
13 upon the Administration shall be exercised by the Adminis-
14 tration through the Small Business Investment Division, and
15 the powers herein conferred upon the Administrator shall
16 be exercised by him through the Deputy Administrator ap-
17 pointed hereunder. In the performance of, and with respect
18 to the functions, powers, and duties vested by this Act, the
19 Administrator and the Administration shall (in addition to
20 any authority otherwise vested by this Act) have the func-
21 tions, powers, and duties set forth in the Small Business Act
22 ~~of 1953~~, and the provisions of sections ~~209 and 219~~ *13 and 16*
23 of that Act, insofar as applicable, are extended to apply to
24 the functions of the Administrator and the Administration
25 under this Act. *Subject to the standards and procedures*

under section 505 of the Classification Act of 1949, as amended, not to exceed three positions in the Small Business Investment Division of the Administration may be placed in grades 16, 17, and 18 of the General Schedule established by that Act, and any such positions shall be additional to the number authorized by such section or otherwise.

~~PROVISION OF FUNDS~~

~~SEC. 202. (a) In order to finance activities as provided in section 203, the Administration is authorized and empowered to issue to the Secretary of the Treasury notes and other obligations in an amount not exceeding $250,000,000 outstanding at any one time: *Provided,* That the total amount of such notes and other obligations which may be outstanding during the first year after enactment shall not exceed $50,000,000, and during the second year after enactment shall not exceed $150,000,000. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Administration, with the approval of the Secretary of the Treasury. Such notes and other obligations shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of such notes and~~

1 ~~other obligations. The Secretary of the Treasury is author-~~
2 ~~ized to purchase any notes and other obligations of the Ad-~~
3 ~~ministration issued hereunder and for such purpose the Secre-~~
4 ~~tary of the Treasury is authorized to use as a public debt~~
5 ~~transaction the proceeds from the sale of any securities issued~~
6 ~~under the Second Liberty Bond Act, as amended, and the~~
7 ~~purposes for which securities may be issued under such Act~~
8 ~~are extended to include any purchases of such notes and~~
9 ~~other obligations. The Secretary of the Treasury may at any~~
10 ~~time sell any of the notes and other obligations acquired by~~
11 ~~him under this section. All redemptions, purchases, and~~
12 ~~sales by the Secretary of the Treasury of such notes and~~
13 ~~other obligations shall be treated as public debt transactions~~
14 ~~of the United States.~~

15 ~~(b) Funds borrowed under this section and any pro-~~
16 ~~ceeds therefrom shall constitute a revolving fund which may~~
17 ~~be used by the Administration in the exercise of its functions~~
18 ~~under this Act.~~

19 ~~(c) There are hereby authorized to be appropriated~~
20 ~~such sums as may be necessary and appropriate for the~~
21 ~~administrative expenses of the Administration.~~

22 ~~PURPOSES OF REVOLVING FUND~~

23 ~~SEC. 203. The Administration is authorized to use its~~
24 ~~revolving fund—~~

25 ~~(1) to purchase the subordinated debentures of~~

~~small business investment companies as provided in section 302;~~

~~(2) to make loans to small business investment companies as provided in section 303; and~~

~~(3) to make loans to State and local development companies as provided in sections 501 and 502.~~

PROVISION AND PURPOSES OF FUNDS

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "$650,000,000" each place it appears and inserting in lieu thereof "$900,000,000";

(2) by inserting before the period at the end of the fourth sentence the following: ", and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958"; and

(3) by inserting after the seventh sentence the following new sentence: "Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958."

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this Act.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than ten, who shall subscribe to the articles of incorporation of any such company: *Provided,* That no such company shall be chartered under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining

1 whether to approve the establishment of such a company
2 and its proposed articles of incorporation, the Administration
3 shall give due regard, among other things, to the need for
4 the financing of small-business concerns in the area in which
5 the proposed company is to commence business, the general
6 character of the proposed management of the company, the
7 number of such companies previously organized in the
8 United States, and the volume of their operations. After
9 consideration of all relevant factors, the Administration may
10 in its discretion approve the articles of incorporation and
11 issue a permit to begin business.

12 (d) Upon issuance of such permit, the company shall
13 become and be a body corporate, and as such, and in the
14 name designated in its articles shall have power—

15 (1) to adopt and use a corporate seal;

16 (2) to have succession for a period of thirty years,
17 unless extended as provided in section ~~309 (f)~~ *308 (f)*,
18 or unless sooner dissolved by the act of the shareholders
19 owning two-thirds of the stock or by an Act of Congress,
20 or unless its franchise becomes forfeited by some viola-
21 tion of law or regulation issued hereunder;

22 (3) to make contracts;

23 (4) to sue and be sued, complain, and defend in
24 any court of law or equity;

25 (5) by its board of directors, to appoint such offi-

1 cers and employees as may be deemed proper, define
2 their authority and duties, fix their compensation, re-
3 quire bonds of such of them as it deems advisable and
4 fix the penalty thereof, dismiss such officers or employees,
5 or any thereof, at pleasure, and appoint others to fill
6 their places;

7 (6) to adopt bylaws regulating the manner in which
8 its stock shall be transferred, its officers and employees
9 appointed, its property transferred, and the privileges
10 granted to it by law exercised and enjoyed;

11 (7) to establish branch offices or agencies subject
12 to the approval of the Administration;

13 (8) to acquire, hold, operate, and dispose of any
14 property (real, personal, or mixed) whenever necessary
15 or appropriate to the carrying out of its lawful functions;

16 (9) to act as depository or fiscal agent of the United
17 States when so designated by the Secretary of the
18 Treasury;

19 (10) to operate in such area or areas as may be
20 specified in its articles of incorporation and approved
21 by the Administration; and

22 (11) to exercise the other powers set forth in this
23 Act and such incidental powers as may reasonably be
24 necessary to carry on the business for which the company
25 is established.

(e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stock of the company.

CAPITAL STOCK AND SUBORDINATED DEBENTURES

SEC. 302. (a) Each company organized under this Act shall have a paid-in capital and surplus equal to at least $300,000 before it shall commence business. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to not more than $150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deemed a part of the capital and surplus of such companies for purposes of this section and sections 303 (b) and 306 of this Act.

~~(b) The shares of stock in any small business investment company shall be eligible for purchase by member banks of the Federal Reserve System, nonmember insured banks, financial institutions, insurance companies, corporations, partnerships, or other persons. In no event shall any member bank of the Federal Reserve System or any non-~~

1 ~~member insured bank hold such shares in small business~~
2 ~~investment companies in an amount aggregating more than~~
3 ~~1 percent of the capital and surplus of such bank.~~
4 *(b) Shares of stock in small business investment com-*
5 *panies shall be eligible for purchase by national banks, and*
6 *shall be eligible for purchase by other member banks of the*
7 *Federal Reserve System and nonmember insured banks to*
8 *the extent permitted under applicable State law; except that*
9 *in no event shall any such bank hold shares in small business*
10 *investment companies in an amount aggregating more than*
11 *1 percent of its capital and surplus.*
12 (c) The aggregate amount of shares in any such com-
13 pany or companies which may be owned or controlled by
14 any stockholder, or by any group or class of stockholders,
15 may be limited by the Administration.
16 BORROWING POWER
17 SEC. 303. (a) Each small business investment company
18 shall have authority to borrow money and to issue its
19 debenture bonds, promissory notes, or other obligations under
20 such general conditions and subject to such limitations and
21 regulations as the Administration may prescribe.
22 (b) To encourage the formation and growth of small
23 business investment companies, the Administration is
24 authorized to lend funds to such companies through the
25 purchase of their obligations which shall bear interest at such

1 rate, and contain such other terms, as the Administration
2 may fix. The total amount of obligations purchased and
3 outstanding at any one time by the Administration under this
4 subsection in any one company shall not exceed 50 percent
5 of the paid-in capital and surplus of such company.

6 PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS
7 CONCERNS

8 SEC. 304. (a) It shall be a primary function of each
9 small business investment company to provide a source of
10 needed equity capital for small-business concerns in the man-
11 ner and subject to the conditions described in this section.

12 (b) Capital shall be provided by a company to a small-
13 business concern under this section only through the purchase
14 of debenture bonds (of such concern) which shall—

15 (1) bear interest at such rate, and contain such
16 other terms, as the company may fix with the approval
17 of the Administration;

18 (2) be callable on any interest payment date, upon
19 three months' notice, at par plus accrued interest; and

20 (3) be convertible at the option of the company,
21 or a holder in due course, up to and including the
22 effective date of any call by the issuer, into stock of
23 the small-business concern at the sound book value of
24 such stock determined at the time of the issuance of the
25 debentures.

1 (c) Before any capital is provided to a small-business
2 concern under this section—
3 (1) the company may require such concern to
4 refinance any or all of its outstanding indebtedness so
5 that the company is the only holder of any evidence of
6 indebtedness of such concern; and
7 (2) except as provided in regulations issued by
8 the Administration, such concern shall agree that it will
9 not thereafter incur any indebtedness without first se-
10 curing the approval of the company and giving the
11 company the first opportunity to finance such indebted-
12 ness.
13 (d) Whenever a company provides capital to a small-
14 business concern under this section, such concern shall be
15 required to become a stockholder-proprietor of the company
16 by investing in the capital stock of the company, in an
17 amount equal to not less than 2 percent nor more than
18 5 percent of the amount of the capital so provided, in accord-
19 ance with regulations prescribed by the Administrator~~; ex-~~
20 ~~cept that the Administrator may by regulation permit any~~
21 ~~such concern to defer the purchase of such stock for a period~~
22 ~~of not to exceed three years~~.
23 LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS
24 SEC. 305. (a) Each company is authorized to make
25 loans, in the manner and subject to the conditions described

1 in this section, to incorporated and unincorporated small-
2 business concerns in order to provide such concerns with
3 funds needed for sound financing, growth, modernization,
4 and expansion.

5 (b) Loans made under this section may be made
6 directly or in cooperation with other lending institutions
7 through agreements to participate on an immediate or
8 deferred basis. *In agreements to participate in loans on a*
9 *deferred basis under this subsection, the participation by the*
10 *company shall not be in excess of 90 per centum of the balance*
11 *of the loan outstanding at the time of disbursement.*

12 (c) The maximum rate of interest for the company's
13 share of any loan made under this section shall be deter-
14 mined by the Administration.

15 (d) Any loan made under this section shall have a ma-
16 turity not exceeding twenty years.

17 (e) Any loan made under this section shall be of such
18 sound value, or so secured, as reasonably to assure repay-
19 ment.

20 (f) Any company which has made a loan to a small-
21 business concern under this section is authorized to extend
22 the maturity of or renew such loan for additional periods, not
23 exceeding ten years, if the company finds that such extension
24 or renewal will aid in the orderly liquidation of such loan.

1 AGGREGATE LIMITATIONS

2 SEC. 306. Without the approval of the Administration,
3 the aggregate amount of obligations and securities acquired
4 and for which commitments may be issued by any small
5 business investment company under the provisions of this
6 Act for any single enterprise shall not exceed 20 percent of
7 the combined capital and surplus of such small business
8 investment company authorized by this Act.

9 EXEMPTIONS

10 SEC. 307. (a) Section 3 of the Securities Act of 1933,
11 as amended (15 U. S. C. 77c), is hereby amended by in-
12 serting at the end thereof the following new subsection (c):

13 "(c) The Commission may from time to time by its
14 rules and regulations and subject to such terms and condi-
15 tions as may be prescribed therein, add to the securities
16 exempted as provided in this section any class of securities
17 issued by a small business investment company under the
18 Small Business Investment Act of 1958 if it finds, having
19 regard to the purposes of that Act, that the enforcement of
20 this Act with respect to such securities is not necessary in
21 the public interest and for the protection of investors."

22 (b) Section 304 of the Trust Indenture Act of 1939
23 (15 U. S. C. 77ddd) is hereby amended by adding the
24 following subsection (e):

1 "(e) The Commission may from time to time by its
2 rules and regulations, and subject to such terms and condi-
3 tions as may be prescribed herein, add to the securities
4 exempted as provided in this section any class of securities
5 issued by a small business investment company under the
6 Small Business Investment Act of 1958 if it finds, having
7 regard to the purposes of that Act, that the enforcement of
8 this Act with respect to such securities is not necessary in
9 the public interest and for the protection of investors."

10 (c) Section 18 of the Investment Company Act of
11 1940 (15 U. S. C. ~~80a~~ *80a–18*) is amended by adding at
12 the end thereof the following:

13 "(k) The provisions of subparagraphs (A) and (B) of
14 paragraph (1) of subsection (a) of this section shall not
15 apply to investment companies operating under the Small
16 Business Investment Act of 1958."

17 MISCELLANEOUS

18 SEC. 308. (a) Wherever practicable the operations of
19 a small business investment company, including the genera-
20 tion of business, may be undertaken in cooperation with
21 banks or other financial institutions, and any servicing or
22 initial investigation required for loans or acquisitions of
23 securities by the company under the provisions of this Act
24 may be handled through such banks or other financial

1 institutions on a fee basis. Any small business investment
2 company may receive fees for services rendered to banks or
3 other financial institutions.

4 (b) Each small business investment company may make
5 use, wherever practicable, of the advisory services of the
6 Federal Reserve System and of the Department of Commerce
7 which are available for and useful to industrial and com-
8 mercial businesses, and may provide consulting and advisory
9 services on a fee basis and have on its staff persons competent
10 to provide such services. Any Federal Reserve bank is au-
11 thorized to act as a depository or fiscal agent for any com-
12 pany organized under this Act. Such companies may invest
13 funds not reasonably needed for their current operations in
14 direct obligations of, or obligations guaranteed as to principal
15 and interest by, the United States.

16 (c) The Administration is authorized to prescribe regu-
17 lations governing the operations of small business investment
18 companies, and to carry out the provisions of this Act, in ac-
19 cordance with the purposes of this Act. Each small business
20 investment company shall be subject to examinations made
21 by direction of the Administration by examiners selected or
22 approved by the Administration, and the cost of such exam-
23 inations, including the compensation of the examiners, may
24 in the discretion of the Administration be assessed against the
25 company examined and when so assessed shall be paid by

1 such company. Every such company shall make such re-
2 ports to the Administration at such times and in such form as
3 the Administration may require; except that the Adminis-
4 tration is authorized to exempt from making such reports
5 any such company which is registered under the Investment
6 Company Act of 1940 to the extent necessary to avoid
7 duplication in reporting requirements.

8 (d) Should any small business investment company vio-
9 late or fail to comply with any of the provisions of this Act
10 or of regulations prescribed hereunder, all of its rights, privi-
11 leges, and franchises derived therefrom may thereby be for-
12 feited. Before any such company shall be declared dissolved,
13 or its rights, privileges, and franchises forfeited, any non-
14 compliance with or violation of this Act shall be determined
15 and adjudged by a court of the United States of competent
16 jurisdiction in a suit brought for that purpose in the district,
17 territory, or other place subject to the jurisdiction of the
18 United States, in which the principal office of such company
19 is located. Any such suit shall be brought by the United
20 States at the instance of the Administration or the Attorney
21 General.

22 (e) Whenever in the judgment of the Administra-
23 tion any person has engaged or is about to engage in any
24 acts or practices which constitute or will constitute a viola-
25 tion of any provision of this Act or of any regulation there-

1 under, the Administration may make application to the
2 proper district court of the United States, or a United
3 States court of any Territory or other place subject to the
4 jurisdiction of the United States, for an order enjoining such
5 acts or practices, or for an order enforcing compliance with
6 such provision, or regulation, and such courts shall have
7 jurisdiction of such actions and, upon a showing by the Ad-
8 ministration that such person has engaged or is about to
9 engage in any such acts or practices, a permanent or tem-
10 porary injunction, restraining order, or other order, shall
11 be granted without bond.

12 (f) Any small business investment company may at any
13 time within the two years next previous to the date of the
14 expiration of its corporate existence, by a vote of the share-
15 holders owning two-thirds of its stock, apply to the Admin-
16 istration for approval to extend the period of its corporate ex-
17 istence for a term of not more than thirty years, and upon
18 approval of the Administration, as provided in section 301
19 hereof, such company shall have its corporate existence ex-
20 tended for such approved period unless sooner dissolved by
21 the act of the shareholders owning two-thirds of its stock,
22 or by an Act of Congress, or unless its franchise becomes
23 forfeited as herein provided.

24 (g) Nothing in this Act or in any other provision of
25 law shall be deemed to impose any liability on the United

1 States with respect to any obligations entered into, or stocks
2 issued, or commitments made, by any company organized
3 under this Act.

4 APPROVING STATE CHARTERED COMPANIES FOR
5 OPERATIONS UNDER THIS ACT

6 SEC. 309. Any investment company chartered under the
7 laws of any State expressly for the purpose of operating
8 under this Act may with the approval of the Administrator
9 be permitted to operate under the provisions of this Act.
10 Upon such approval, which shall be given with due regard
11 to the factors specified in section 301 (c) with respect to
12 organization of small business investment companies, such
13 State investment company shall have the same powers and
14 privileges and shall be subject to the same duties, liabilities,
15 and regulations, in all respects, as are prescribed by this Act
16 for companies organized under section 301 as small business
17 investment companies.

18 TITLE IV—CONVERSION OF STATE CHARTERED
19 INVESTMENT COMPANIES AND STATE DE-
20 VELOPMENT COMPANIES

21 SEC. 401. (a) Prior to July 1, 1961, any investment
22 company or any State development company may, by the
23 vote of the shareholders owning not less than 51 percent of
24 the capital stock of such company, with the approval of the
25 Administration, be converted into a small business invest-

1 ment company under this Act; except that nothing contained
2 herein shall be construed to supersede the laws of any State.
3 (b) In such case the articles of association and organi-
4 zation certificate may be executed by a majority of the
5 directors of the corporation, and the certificate shall declare
6 that the owners of 51 percent of the capital stock have
7 authorized the directors to make such certificate and to
8 change or convert the corporation into a small business in-
9 vestment company. A majority of the directors, after exe-
10 cuting the articles of association and the organization certifi-
11 cate, shall have power to execute all other papers and to
12 do whatever may be required to make its organization per-
13 fect and complete as a small business investment company.
14 The shares of any such company may continue to be for the
15 same amount each as they were before the conversion, and
16 the directors, regardless of number, may continue to be
17 directors of the corporation until the election of the board
18 of directors is held in accordance with regulations of the
19 Administration.
20 (c) When the Administration has given to such com-
21 pany a certificate that the provisions of this Act have been
22 complied with, such company shall have the same powers and
23 privileges and shall be subject to the same duties, liabilities,

1 and regulations, in all respects, as are prescribed by this
2 Act for companies originally organized as small business
3 investment companies.

4 TITLE V—LOANS TO STATE AND LOCAL DE-
5 VELOPMENT COMPANIES

6 SEC. 501. (a) The Administration is authorized to
7 make loans to State ~~and local~~ development companies to
8 assist in carrying out the purposes of this Act~~; except that~~
9 ~~no such loan shall be made to any local development company~~
10 ~~after June 30, 1961.~~ Any funds advanced under this sub-
11 section shall be in exchange for obligations of the develop-
12 ment company which bear interest at such rate, and contain
13 such other terms, as the Administration may fix, and funds
14 may be so advanced without regard to the use and investment
15 by the development company of funds secured by it from
16 other sources.

17 (b) The total amount of obligations purchased and out-
18 standing at any one time by the Administration under this
19 section from any one State ~~or local~~ development company
20 shall not exceed the total amount borrowed by it from all
21 other sources. *Funds advanced to a State development*
22 *company under this section shall be treated on an equal basis*
23 *with those funds borrowed by such company after the date*

1 *of the enactment of this Act, regardless of source, which*
2 *have the highest priority, except when this requirement is*
3 *waived by the Administrator.*

4 SEC. 502. The Administration may, in addition to its
5 authority under section 501, make loans for plant construc-
6 tion, conversion or expansion, including the acquisition of
7 land, to State and local development companies, and such
8 loans may be made or effected either directly or in coopera-
9 tion with banks or other lending institutions through agree-
10 ments to participate on an immediate or deferred basis: *Pro-*
11 *vided, however,* That the foregoing powers shall be subject to
12 the following restrictions and limitations:

13 (1) All loans made shall be so secured as reasonably
14 to assure repayment. In agreements to participate in loans
15 on a deferred basis under this subsection, such participation
16 by the Administration shall not be in excess of 90 per centum
17 of the balance of the loan outstanding at the time of dis-
18 bursement.

19 (2) The proceeds of any such loan shall be used solely
20 by such borrower to assist an identifiable small-business con-
21 cern and for a sound business purpose approved by the
22 Administration.

23 (3) Loans made by the Administration under this sec-
24 tion shall be limited to $250,000 for each such identifiable
25 small-business concern.

1 (4) Any development company assisted under this sec-
2 tion must meet criteria established by the Administration, in-
3 cluding the extent of participation to be required or amount
4 of paid-in capital to be used in each instance as is determined
5 to be reasonable by the Administration.

6 (5) No loans, including extensions or renewals thereof,
7 shall be made by the Administration for a period or periods
8 exceeding ten years plus such additional period as is estimated
9 may be required to complete construction, conversion, or
10 expansion, but the Administration may extend the maturity
11 of or renew any loan made pursuant to this section beyond
12 the period stated for additional periods, not to exceed ten
13 years, if such extension or renewal will aid in the orderly
14 liquidation of such loan. Any such loan shall bear interest
15 at a rate fixed by the Administration.

16 (6) No loan shall be made under this section to any
17 local development company after June 30, 1961.

18 TITLE VI—CHANGES IN FEDERAL RESERVE
19 AUTHORITY

20 REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

21 SEC. 601. Effective one year after the date of enact-
22 ment of this Act, section 13b of the Federal Reserve Act
23 (12 U. S. C. 352a) is hereby repealed; but such repeal
24 shall not affect the power of any Federal Reserve bank
25 to carry out, or protect its interest under, any agreement

1 theretofore made or transaction entered into in carrying on
2 operations under that section.

3 ~~FUND FOR MANAGEMENT COUNSELING~~ *TRANSFER OF FUNDS*

4 SEC. 602. (a) Within sixty days after the enactment
5 of this Act, each Federal Reserve bank shall pay to the
6 United States the aggregate amount which the Secretary
7 of the Treasury has heretofore paid to such bank under the
8 provisions of section 13b of the Federal Reserve Act; and
9 such payment shall constitute a full discharge of any obliga-
10 tion or liability of the Federal Reserve bank to the United
11 States or to the Secretary of the Treasury arising out of sub-
12 section (e) of said section 13b or out of any agreement
13 thereunder.

14 ~~(b) The amounts repaid to the United States pursuant~~
15 ~~to subsection (a) of this section shall be covered into a spe-~~
16 ~~cial fund in the Treasury which shall be available for grants~~
17 ~~under section 207 (c) of the Small Business Act of 1953.~~
18 ~~Any remaining balance of funds set aside in the Treasury for~~
19 ~~payments under section 13b of the Federal Reserve Act shall~~
20 ~~be covered into the Treasury as miscellaneous receipts.~~

21 *(b) The amounts repaid to the United States pursuant*
22 *to subsection (a) of this section shall be covered into the*
23 *Treasury as miscellaneous receipts.*

24 ~~(c) Section 207 of the Small Business Act of 1953 is~~

1 ~~amended by adding at the end thereof a new subsection as~~
2 ~~follows:~~
3 ~~"(c) The Administration also is empowered to make~~
4 ~~grants to any State government, or any agency thereof,~~
5 ~~State chartered development credit or finance corporations,~~
6 ~~land-grant colleges and universities, and colleges and schools~~
7 ~~of business, engineering, commerce, or agricultural studies,~~
8 ~~research, and counseling concerning the managing, financing,~~
9 ~~and operation of small-business enterprises and technical~~
10 ~~and statistical information necessary thereto in order to carry~~
11 ~~out the purposes of subsection (b) (4) of this section by~~
12 ~~coordinating such information with existing information fa-~~
13 ~~cilities within the State and by making such information~~
14 ~~available to State and local agencies. Only one such grant~~
15 ~~shall be made within any one State in any one year, and no~~
16 ~~such grant shall exceed an aggregate amount of $40,000.~~
17 ~~Such grants shall be made from the fund established in the~~
18 ~~Treasury by section 602 (b) of the Small Business Invest-~~
19 ~~ment Act of 1958."~~
20 TITLE VII—CRIMINAL PENALTIES
21 SEC. 701. (a) The first paragraph of section 217 of
22 title 18, United States Code, is amended by inserting after
23 "farm credit examiner," the following: "or of any small
24 business investment company,".

1 (b) Section 218 of such title is amended by inserting
2 after "National Agricultural Credit Corporations," the fol-
3 lowing: "or an examiner of small business investment
4 companies,".

5 SEC. 702. (a) The first paragraph of section 221 of
6 title 18, United States Code, is amended by inserting after
7 "United States," the following: "or a small business invest-
8 ment company,".

9 (b) The second paragraph of such section 221 is
10 amended by inserting after "Congress," the following: "or
11 any small business investment company,".

12 (c) The heading of such section 221 is amended by
13 striking out "farm loan or land bank" and inserting in lieu
14 thereof "farm loan, land bank, or small business".

15 (d) The table of sections for chapter 11 of such title 18
16 is amended by striking out "farm loan or land bank" in the
17 reference to section 221 and inserting in lieu thereof "farm
18 loan, land bank, or small business".

19 SEC. 703. Section 657 of title 18, United States Code,
20 is amended by inserting after "Federal Savings and Loan
21 Insurance Corporation," the following: "or any small busi-
22 ness investment company,".

23 SEC. 704. Section 1006 of title 18, United States Code,
24 is amended by inserting after "Federal Savings and Loan

1 Insurance Corporation," the following: "or any small busi-
2 ness investment company,".

3 SEC. 705. Section 1014 of title 18, United States Code,
4 is amended by inserting after "a Federal Reserve bank,"
5 the following: "or of a small business investment company,".

Passed the Senate June 9, 1958.

Attest: FELTON M. JOHNSTON,

Secretary.

Union Calendar No. 842

85TH CONGRESS
2D SESSION

S. 3651

[Report No. 2060]

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

JUNE 10, 1958

Referred to the Committee on Banking and Currency

JUNE 30, 1958

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 3, 1958
For actions of July 2, 1958
85th-2d, No. 110

CONTENTS

Accounting.....29
Appropriations.....1,11
Area redevelopment.....8
Budget.....29
Buildings.....25
CCC.....26
Crop insurance.....24
Education.....5
Electrification.....23
Farm program.....2,9
Flood control.....4
Foot-and-mouth disease....2
Foreign aid.....1,6,22
Foreign trade.....15
Forestry.....2,14
Grain.....26
Grasshoppers.....7
Hog-cholera.....2
Legislative program.....8
Marketing facilities.....8
Military construction....8
Minerals.....13,27
Personnel ethics.....16
Public Law 480.....6,8
Research.....2,10,19
Small business.....3,18
Statehood.....17,20
Surplus commodities.....6
Surplus property.....21
Textiles.....1
Transportation.....12
Weather.....19
Wheat.....7
Wildlife.....28

HIGHLIGHTS: House passed mutual security appropriation bill. Senate committee reported bill for research on increased industrial uses of farm products. Sen. Proxmire criticized administration farm policies.

HOUSE

1. APPROPRIATIONS. Passed, 253 to 126, without amendment H. R. 13192, the mutual security appropriation bill for 1959. (pp. 11746-81) Rejected, 66 to 133, an amendment by Rep. Canfield which would have provided that none of the funds shall be used to establish textile processing plants in any foreign country. (pp. 11772-78

2. FARM PROGRAM. The Agriculture Committee ordered reported the following bills: (p. D629)
   - S. 3076, to authorize the transportation in the U. S. of live foot-and-mouth disease virus for research purposes.
   - S. 3478, to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus.
   - H. R. 12704, to authorize the use of receipts from the National Forests for general local government purposes as well as for public schools and public roads.
   - H. R. 6542, to authorize the conveyance of certain forest lands to the town of Dayton, Wyo.

3. SMALL BUSINESS. Conferees were appointed on H. R. 7963, to make the Small Business Administration a permanent agency and increase the SBA loan authority. Senate conferees were appointed July 1. p. 11781

The Rules Committee reported a resolution for consideration of S. 3651, to make equity capital and long-term credit more readily available for small business concerns. p. 11795

4. FLOOD CONTROL. Passed without amendment S. 2964, to grant the consent of Congress to a compact between Mass. and Conn. relating to flood control. A similar bill, H. R. 9924, which had been reported earlier by the Public Works Committee (H. Rept. 2105) was tabled. S. 2964 will now be sent to the President. pp. 11784-86, 11796

5. EDUCATION. The Education and Labor Committee ordered reported H. R. 13247, a clean bill in lieu of H. R. 12630, to strengthen the national defense and to encourage and assist in the expansion and improvement of education programs to meet critical national needs. p. D630

A subcommittee of the Education and Labor Committee ordered reported H. R. 13241, to provide assistance to the States for area vocational education programs. p. D630

6. FOREIGN AID; SURPLUS COMMODITIES. Rep. Hill urged early enactment of legislation for the extension of Public Law 480, and inserted a release of this Department announcing agreements with various counties for the disposal of surplus commodities. p. 11792

7. WHEAT; INSECTS. Rep. Hill cited the serious situation caused by the grasshopper infestation in the Great Plains area, and inserted a release by this Department on efforts by the Department and local governments to control the infestation. pp. 11792-93

8. LEGISLATIVE PROGRAM. Rep. McCormack announced that S. 3420, to extend Public Law 480, will be considered under suspension of the rules Mon., July 7, and that the Consent Calendar will be called. He announced that the following bill will be considered later in the week: S. 3683, the area redevelopment bill; H. R. 4504, marketing facilities for perishable commodities; S. 3651, equity capital and long term credit for small businesses; and H. R. 13015, the military construction authorization bill. p. 11779

SENATE

9. FARM PROGRAM. Sen. Proxmire criticized the administration's farm policies and urged support for a program of production limitations to grow only what can be sold at a fair price. He inserted an article, "United States Expects Peak In Farm Subsidies--Cost of Program Now Put at 6 Billion, Up 1.4 Billion From Budget Figures." pp. 11695-4

Sen. Sparkman inserted an article on the reduced cotton production and its effect on the South. pp. 11695-6

10. RESEARCH. The Agriculture and Forestry Committee reported an original bill, S. 4100, to provide for the increased use of agricultural products for industrial purposes (S. Rept. 1795). p. 11682

11. APPROPRIATION. The Appropriations Committee reported with amendments H. R. 12858, the civil functions appropriation bill for the Army, certain agencies of the Interior Department, and the TVA for 1959 (S. Rept. 1796). p. 11682

Ohio: Canton, Cleveland, Columbus, Dayton, McArthur, and Youngstown.

Oklahoma: Altus, Durant, Guthrie, Lawton, Wagoner, and Tulsa.

Oregon: Medford and Portland.

Pennsylvania: Harrisburg and Philadelphia.

Rhode Island: Bristol, Providence, Westerly, and Woonsocket.

South Carolina: Charleston.

South Dakota: Huron, Mitchell, Pierre, and Rapid City.

Tennessee: Bristol and Oak Ridge.

Texas: Austin, Corpus Christi, Dublin, El Paso, Fort Worth, Levelland, Mineral Wells, San Antonio, San Augustine, Sherman, Texas City, and Tyler.

Utah: Ogden.

Vermont: Montpelier.

Virginia: Roanoke and Suffolk.

Washington: Aberdeen, Dayton, Everett, Olympia, Pasco, Richland, Seattle, Tacoma, and Vancouver.

Wisconsin: Madison and Milwaukee,

Wyoming: Casper, Cheyenne, Cody, Rock Springs, and Worland.

None of these 110 projects may under present law be submitted to the Committees on Public Works since the time for securing approval under the lease-purchase law—Public Law 519, 83d Congress—has now expired.

The following is a list of 71 Government-owned sites which may be used for new public buildings projects if my bill is enacted:

Alabama: Florala, Livingston and Moulton.

Arkansas: Ashdown, Augusta, and Harrisburg.

California: Bakersfield and Los Angeles—terminal annex.

Florida: Monticello.

Georgia: Hogansville, Metter, Thomasville, Vienna, and Warm Springs.

Illinois: Casey, Eureka, and Fairbury.

Indiana: Bicknell.

Iowa: Ames—College station.

Louisiana: Coushatta.

Maine: Wilston.

Michigan: Dearborn, Monroe Boulevard station; Milan; and Tecumseh.

Minnesota: Roseau.

Mississippi: Quitman and Tupelo.

Missouri: Cape Girardeau, Independence, Moberly, and St. Louis—Richmond Heights Branch.

Montana: Whitefish.

New Jersey: Carteret, Garwood, and Newton.

New York: Dannemora, East Syracuse, Mohawk, and Montour Falls.

North Carolina: Scotland Neck.

Ohio: Akron, McArthur, and Oak Hill.

Oklahoma: Mountain View and Wagoner.

Pennsylvania: Beaver, Branckenridge, Clifton Heights, Downingtown, Emmaus, Greencastle, Jersey Shore, Newport, and Reynoldsville.

South Carolina: Charleston and Lyman.

Tennessee: Etowah, Hartsville, and Sharon.

Texas: Dublin, Levelland, Madisonville, New Boston, Orange, and San Augustine.

Virginia: Waynesboro.

Wisconsin: Evansville, New London, and Tomahawk.

Hawaii: Wailuku.

PERSONAL ANNOUNCEMENT

Mr. GRIFFIN. Mr. Speaker, during rollcall No. 118 today, on the so-called Mallory bill, my colleague, Mr. McINTOSH, and I were in conference with the President, and missed the vote. If I had been present I would have voted "aye." Mr. McINTOSH has authorized me to say that if he had been present he would have voted "aye."

SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. MADDEN (at the request of Mr. McCORMACK) from the Committee on Rules, reported the following privileged resolution (H. Res. 618, Rept. No. 2115), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALENDAR WEDNESDAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCOTT of Pennsylvania (at the request of Mr. MARTIN), indefinitely, on account of death in family.

Mr. DAGUE (at the request of Mr. MARTIN), for an indefinite period, on account of death in his family.

Mr. ANDERSON of Montana, for the week of July 7 and the week of July 14, on account of attendance under orders at field training of the 96th Infantry Division, United States Army Reserve.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to Mr. REUSS, for 30 minutes, on Monday and to revise and extend the remarks he will then make.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. ROONEY, to revise and extend his remarks and include a statement by the President.

Mr. GATHINGS and to include an article.

Mr. ANFUSO in one instance and to include extraneous matter.

Mr. ULLMAN in three instances, in each to include extraneous matter.

Mr. O'HARA of Illinois in two instances.

Mr. ZABLOCKI and to include extraneous matter.

Mr. METCALF, the remarks he made on the conference report on Senate Joint Resolution 12 and to include excerpts from three court decisions.

Mr. ANDERSON of Montana, on Senate Joint Resolution 12 and to include extraneous matter.

Mr. ANDERSON of Montana in three instances and to include extraneous matter.

Mr. JONES of Alabama and to include an editorial.

Mr. DAVIS of Georgia and to include a letter entitled "A Letter to the Reverend C. B. Lucas" which is estimated by the Public Printer to cost $324.

Mr. WITHROW and to include extraneous matter which is estimated by the Public Printer to cost $486.

Mr. PHILBIN in two instances and to include extraneous matter.

Mr. WIDNALL and to include extraneous matter.

Mr. BETTS and to include an editorial.

Mr. GRIFFIN, to be inserted during debate in the Committee of the Whole on the mutual security aid bill immediately following the amendment which he offered.

Mr. MAY in five instances and to include extraneous matter.

Mr. LANKFORD in five instances and to include extraneous matter.

Mr. YOUNGER (at the request of Mr. SCHWENGEL) and to include an editorial.

Mr. WESTLAND (at the request of Mr. SCHWENGEL) and to include extraneous matter.

Mr. KEATING (at the request of Mr. SCHWENGEL) in five instances and to include extraneous matter.

Mr. MEADER (at the request of Mr. SCHWENGEL) and to include extraneous matter.

Mr. HARRISON of Virginia (at the request of Mr. McCORMACK) in two in-

stances and to include extraneous matter.

Mr. HEALEY (at the request of Mr. McCORMACK) and to include extraneous matter.

Mr. BROOKS of Texas (at the request of Mr. McCORMACK) and to include extraneous matter.

Mr. MULTER (at the request of Mr. McCORMACK) in three instances and to include extraneous matter.

Mr. FARBSTEIN (at the request of Mr. McCORMACK) in three instances and to include extraneous matter.

Mr. HEMPHILL (at the request of Mr. McCORMACK) and to include extraneous matter.

Mr. ROOSEVELT (at the request of Mr. McCORMACK) and to include extraneous matter.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2117. An act directing the Secretary of the Army to transfer certain buildings to the Crow Creek Sioux Indian Tribe; to the Committee on Interior and Insular Affairs.

S. 3177. An act authorizing the modification of the Crisfield Harbor, Md., project in the interest of navigation; to the Committee on Public Works.

S. 3203. An act relating to minerals on the Wind River Indian Reservation in Wyoming, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3437. An act authorizing the Department of Highways of the State of Minnesota to construct, maintain, and operate a free highway bridge between International Falls, Minn., and Fort Frances, Ontario, Canada; to the Committee on Foreign Affairs.

S. 3499. An act to amend the vessel admeasurement laws relating to water ballast spaces; to the Committee on Merchant Marine and Fisheries.

S. 3608. An act to revive and reenact the act authorizing the State Highway Commission of the State of Maine to construct, maintain, and operate a free highway bridge between Lubec, Maine, and Campobello Island, New Brunswick, Canada; to the Committee on Foreign Affairs.

S. 3728. An act to incorporate the Big Brothers of America; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 982. An act to amend section 77 (c) (6) of the Bankruptcy Act;

H. R. 10154. An act to empower the judicial conference to study and recommend changes in and additions to the rules of practice and procedure in the Federal courts;

H. R. 11424. An act to extend the authority of the Secretary of Agriculture to extend special livestock loans, and for other purposes;

H. R. 11861. An act authorizing the city of Chester, Ill., to construct new approaches to and to reconstruct, repair, or improve the existing approaches to a toll bridge across the Mississippi River at or nead Chester, Ill.;

H. R. 11936. An act to extend the time for the collection of tolls to amortize the cost, including reasonable interest and financing cost, of the construction of a bridge across the Missouri River at Brownville, Nebr.;

H. R. 12311. An act to amend the act of September 7, 1950 (relating to the construction of a public airport in or near the District of Columbia), to remove the limitation on the amount authorized to be appropriated for construction;

H. R. 12739. An act to amend section 1105 (b) of title XI (Federal Ship Mortgage Insurance) of the Merchant Marine Act, 1936, as amended, to implement the pledge of faith clause; and

H. R. 12827. An act to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 86. An act to amend the National Science Foundation Act of 1950, to provide for a program of study, research, and evaluation in the field of weather modification; and

S. 2007. An act to amend the United States Grain Standards Act, 1916, as amended, to permit the Secretary of Agriculture to charge and collect for certain services performed, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H. R. 12716. An act to amend the Atomic Energy Act of 1954, as amended.

ADJOURNMENT

Mr. McCORMACK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 18 minutes p. m.) the House adjourned until tomorrow, Thursday, July 3, 1958, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2088. A letter from the Comptroller General of the United States, transmitting a report on the review of activities of naval ammunition depots and similar type installations managed by the Bureau of Ordnance, Department of the Navy, pursuant to the Budget and Accounting Act, 1921 (31 U. S. C. 53), and the Accounting and Auditing Act of 1950 (31 U. S. C. 67); to the Committee on Government Operations.

2089. A letter from the Chairman, United States Atomic Energy Commission, relative to a message that was transmitted by the President to the Congress on June 23, 1958, relating to a proposed international agreement between the United States of America and the European Atomic Energy Community for approval pursuant to sections 11 (1) and 124 of the Atomic Energy Act of 1954, as amended, and also stating that legislation has been transmitted by our letter of June 23, 1958, to the Chairman, Joint Committee on Atomic Energy; to the Joint Committee on Atomic Energy.

2090. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation entitled "A bill to amend the act of June 10, 1938, relating to participation by the United States in the International Criminal Police Organization"; to the Committee on the Judiciary.

2091. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting in alphabetical order, 452 reports concerning individuals admitted to the United States notwithstanding affliction with tuberculosis, pursuant to section 6 of the act of September 11, 1957; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DAVIS of Tennessee: Committee on Public Works. H. R. 9924. A bill granting the consent and approval of Congress to a compact between the State of Connecticut and the State of Massachusetts relating to flood control; without amendment (Rept. No. 2105). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works. S. 495. An act to authorize the acquisition of the remaining property in square 725 in the District of Columbia for the purpose of extension of the site of the additional office building for the United States Senate or for the purpose of addition to the United States Capitol Grounds; without amendment (Rept. No. 2106). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAVIS of Tennessee: Committee on Public Works. House Joint Resolution 633. Joint resolution to designate the lake formed by the Ferrells Bridge Dam across Cypress Creek in Texas as Lake O' the Pines; without amendment (Rept. No. 2107). Referred to the House Calendar.

Mr. DURHAM: Joint Committee on Atomic Energy. H. R. 13121. A bill to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; without amendment (Rept. No. 2108). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works. H. R. 12883. A bill to provide for certain improvements relating to the Capitol Power Plant and its distribution systems; with amendment (Rept. No. 2109). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAVIS of Tennessee: Committee on Public Works. S. 1785. An act designating the reservoir located above Heart-Butte Dam in Grant County, N. Dak., as Lake Tschida, and for other purposes; without amendment (Rept. No. 2110). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works. S. 3975. An act to provide for the construction of a fireproof annex building for use of the Government Printing Office, and for other purposes; without amendment (Rept. No. 2111). Referred to the House Calendar.

Mrs. GREEN of Oregon: Joint Committee on the Disposition of Executive Papers. House Report No. 2112. Report on the disposition of certain papers of sundry executive departments. Ordered to be printed.

Mrs. GREEN of Oregon: Joint Committee on the Disposition of Executive Papers. House Report No. 2113. Report on the disposition of certain papers of sundry executive departments. Ordered to be printed.

Mrs. GREEN of Oregon: Joint Committee on the Disposition of Executive Papers.

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 24, 1958
For actions of July 23, 1958
85th-2d, No. 124

CONTENTS

Appropriations.....6
Area development.....25
Budgeting.....9
CCC grains.....3
Civil defense.....12
Claims.....10
Conservation.....22
Corn and feed grains....11
Cotton.....11
Economic situation.....20
Electrification.....8
Farm loans.....9
Farm program.....11,21,24
Fish and wildlife....14,15
Foreign aid.....13
Foreign trade.....1
Forest products.....29
Highways.....18
Lands.....30
Legislative program.....21
Marketing quotas.....28
Minerals.....30
Personnel.....5
Pest control.....27
Pesticides.....14
Public Law 480.....1
Public works.....23
Reclamation.....4,16
Research.....27,29
Rice.....11
Small business.....7
Surplus commodities.....1
Trade agreements.....2
Water development....14,19
Water utilization.....17
Wheat.....28
Wool.....26

HIGHLIGHTS: House passed Public Law 480 bill. Senate debated farm bill. House appointed conferees on reciprocal trade extension bill. Both Houses received proposed bill to provide revolving fund for USDA loans.

HOUSE

1. FOREIGN TRADE; SURPLUS COMMODITIES. Passed under suspension of the rules, 195 to 52, S. 3420, to extend Public Law 480. (pp. 13392, 13435, A6607-08, A6634-35) As passed the bill provides as follows:

Extends titles I and II for 1 year, through June 30, 1959. Authorizes the sale of an additional $1.5 billion of agricultural surpluses for foreign currencies under title I. Continues the present authorization of $800 million for donation of surplus commodities to friendly countries under title II. Directs the Secretary to barter or exchange CCC surplus commodities, in an amount not to exceed $500 million annually, for strategic materials or other materials of which the U. S. does not domestically produce its requirements and which entail less risk of loss through deterioration or substantially less storage charges, for materials, goods, or equipment required in connection with foreign economic and military aid and assistance programs, or for materials or equipment required in substantial quantities for offshore construction programs Prohibits the placing of restrictions, in carrying out barters or exchanges, on countries of the free world into which surplus commodities may be sold,

except where the Secretary has made a specific finding that a transaction will replace a cash sale for dollars. Provides that no material shall be excluded from barter by reason of the fact that it has been domestically processed, if provision is made for the importation of an equivalent amount of similar raw material. Directs the Secretary to assist farmers' cooperatives in effecting exchange of agricultural commodities in their possession for strategic materials. Directs other Federal agencies to cooperate with the Secretary in the disposal of surplus commodities by means of barter or exchange. Authorizes the use of foreign currencies acquired under the program, as may be specified from time to time in appropriation acts, for the acquisition of sites and building and grounds abroad for U. S. Government use; financing trade fair participation and related activities; health programs; literacy and technical training programs and similar programs not specifically covered by other provisions of the bill; international educational exchanges; expansion and operation of American-sponsored schools and educational institutions abroad; supporting workshops and chairs in American studies; and financing an expanded program of locating, evaluating, translating, and acquiring foreign books, periodicals, and other publications outside the U. S. which are of scientific, technical, and cultural significance to the U. S. Authorizes the President to make any area under the jurisdiction of administration of the U. S., such as the Trust Islands of the Pacific and the Ryuku Islands, eligible to participate in the surplus commodities disposal and distribution programs under Public Law 480 and Sec. 32 of the act of 1935. Provides that in negotiating agreements for sales of commodities for foreign currencies the President shall take reasonable precautions to assure that such sales will not unduly disrupt normal patterns of commercial trade with friendly countries.

2. TRADE AGREEMENTS. Conferees were appointed on H. R. 12591, to extend the trade agreements authority. Senate conferees have not been appointed. p. 13392

3. CCC GRAINS. A subcommittee of the Agriculture Committee ordered reported H. R. 12555 and H. R. 13268, to authorize CCC to exercise the option of processing or reprocessing CCC stocks of grain, or to purchase commodities in such form in the open market, for donation purposes. p. D725

4. RECLAMATION. The Interior and Insular Affairs Committee "concluded the consideration and amending of H. R. 594, Fryingpan-Arkansas project bill, and ordered a clean bill, incorporating such amendments, reported to the House." p. D726

5. PERSONNEL AWARDS. Passed under suspension of the rules H. R. 488, to provide for the conferring of an award to be known as the Medal for Distinguished Civilian Achievement. p. 13392

6. APPROPRIATIONS. Conferees were appointed on H. R. 13066, the legislative branch appropriation bill for 1959. Senate conferees have not been appointed. p. 13392

7. SMALL BUSINESS. Passed, 131 to 5, with amendments S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. pp. 13392-432

8. ELECTRIFICATION. Rep. Porter discussed the development of hydroelectric power in the Pacific Northwest and stated that "the administration's shortsighted power policy will lead us into a very serious power shortage in the Pacific Northwest." pp. 13435-37

combatant function, by notifying the Congress and then waiting 30 days. To prevent such action required the passage of a law. Under the House bill, a combatant function assigned to one of the military Services pursuant to the roles and missions contained in the National Security Act could have been transferred, reassigned, consolidated, or abolished upon the recommendation of the Secretary of Defense after he had consulted with the Joint Chiefs of Staff with respect to such action and had reported his proposed action to the Congress. However, if one or more of the Joint Chiefs of Staff had objected to the proposed transfer, consolidation, reassignment or abolition, the House bill required the Secretary of Defense to advise the Congress that he proposed to transfer, reassign, consolidate or abolish a major combatant function. In other words, under the House bill, a combatant function became a major combatant function when one or more members of the Joint Chiefs of Staff opposed a proposed transfer, abolition, consolidation or reassignment of a combatant function. Under the House bill when the Secretary of Defense proposed to transfer, reassign, consolidate, or abolish a major combatant function the Congress could have prevented such action by adopting a concurrent resolution in opposition to such action.

Thus, under the House bill, both Houses of the Congress had to act to prevent the consolidation, transfer, reassignment, or abolition of a major combatant function.

Under the Senate amendment, the Secretary of Defense may not substantially transfer, reassign, consolidate or abolish any function established by law to be performed by the Department of Defense or any officer or agency thereof until the expiration of the first period of 30 calendar days of continuous session of the Congress following the date on which the Secretary of Defense reports the pertinent details of the action to be taken to the Armed Services Committees of the Senate and House of Representatives.

Under the Senate amendment either Committee may report a resolution to its House stating that the proposed transfer, reassignment, consolidation, or abolition should be rejected because:

(1) It contemplates the transfer, reassignment, consolidation or abolition of a major combatant function assigned to the military services by the National Security Act, and

(2) If carried out, would impair the defense of the United States.

After such a resolution has been reported to either House, the proposed action cannot take place until the expiration of the first period of 40 days of continuous session of the Congress following the date on which the resolution is reported. If either House adopts a resolution in opposition to the proposed action, then the proposed transfer, reassignment, consolidation or abolition cannot be effected.

Under the Senate amendment, such resolutions of disapproval are privileged and a simple majority of either House is sufficient to prohibit the proposed transfer, reassignment, abolition, or consolidation.

The House conferees agreed to the Senate amendment with three modifications. The modifications contained in the conference report deal with the resolution that may be filed by either committee. Under the conference report such resolutions may apply to major combatant functions "now or hereafter" assigned to the military services by the National Security Act. In addition, the resolution shall state that in the judgment of the resolving House, the action, if carried out, would "tend to" impair the defense of the United States.

The words "now or hereafter" are added so as to be applicable to major combatant functions that have now been agreed upon as well as those that may be agreed upon hereafter. Once agreed upon, they should be subject to congressional review.

The words "tend to" were agreed upon since it appears unreasonable to require that the Congress must definitely state that a proposed transfer, abolition, consolidation, or reassignment of a major combatant function would impair the defense of the United States rather than "tend to" impair the defense of the United States. Obviously, no resolution of disapproval will be recommended unless the defense of the United States is involved, but to justify the judgment of the Congress on the grounds that the proposed action flatly "impairs" the defense of the United States requires a finding that might be construed as impugning the motives of the Secretary of Defense.

The only other changes with respect to this portion of the Senate amendment dealing with the transfer, reassignment, consolidation, or abolition of combatant functions deals with the reference to the Reorganization Act of 1949. Under the Senate amendment, any resolution reported to either House shall be treated in the same manner as a resolution with respect to a reorganization plan reported by a Committee within the meaning of the Reorganization Act of 1949.

Since it is the intent of both the House and Senate conferees that a simple majority, rather than a Constitutional majority, is all that is required to approve such a resolution, the conferees agreed to add the language "as in effect on July 1, 1958" with respect to the Reorganization Act of 1949. Prior to the act of September 4, 1957, a Constitutional majority was required to set aside a proposed reorganization plan. Thus reference to the Reorganization Act of 1949 of and by itself might have been construed, at some future date, as requiring a Constitutional majority rather than a simple majority as is now the case in the Reorganization Act of 1949, as amended by the act of September 4, 1957.

In addition, under the language agreed to by the conferees, any future changes in the Reorganization Act of 1949 will not affect the simple majority requirement with respect to proposed consolidations, transfers, reassignments, or abolitions of major combatant functions under the conference report.

Thus the provision agreed to with respect to combatant functions recognizes the responsibility of the Congress as provided in the Constitution of the United States. It preserves to the Congress its prerogative of making the final determination as to the military needs and requirements of our nation.

The third area of disagreement deals with the right of the Secretary of a military department, or a member of the Joint Chiefs of Staff to present to the Congress, on his own initiative, after informing the Secretary of Defense, any recommendations relating to the Department of Defense that he may deem proper.

The Senate amendment eliminated this right with respect to a Secretary of a military department, and in addition, the Senate amendment provided that a member of the Joint Chiefs of Staff or the Joint Chiefs of Staff as a body could present to the committees of the Congress, rather than to the Congress, recommendations relating to the security of the United States, rather than recommendations relating to the Department of Defense.

The House bill reenacted the law which has been in existence for the past nine years which provides that a military Secretary and a member of the Joint Chiefs of Staff shall have the right to come to the Congress on his own initiative, after first advising the Secretary of Defense, with respect to any recommendations relating to the Department of Defense that the military Secretary or member of the Joint Chiefs of Staff deem proper. The Senate conferees agreed to the language that was contained in the House bill. Thus it is a simple repetition of existing law.

Minor changes were also made with respect to the provision dealing with unified or specified combatant commands.

Under the House bill, the President with the advice and assistance of the Joint Chiefs of Staff and acting through the Secretary of Defense, was authorized to establish unified and specified combatant commands for the performance of combatant missions.

The Senate amendment contained the same language, but referred to the missions as "strategic" missions. The words "combatant missions" were objected to on the grounds that they carried a connotation of combat, whereas some unified commands, such as those in the Antarctica and other areas, might be considered noncombatant in nature, but of strategic importance. On the other hand, the use of the words "strategic missions" in a strict military interpretation might be interpreted so as to preclude the establishment of tactical missions. The House and Senate conferees agreed to substitute the words "military missions" in lieu of "combatant missions" or "strategic missions." The words "military missions" are sufficiently broad to include combatant missions, strategic missions, and tactical missions.

The Senate amendment, with respect to unified and specified commands, also provided that each military department would be responsible for the administration of the forces assigned from its department to such combatant commands "except when the Secretary of Defense determines that for the purposes of efficiency such responsibility should be assigned to another military department." The House bill permitted the responsibility for the support of forces assigned to combatant commands to be vested in one or more military departments as directed by the Secretary of Defense. However, the House bill did not permit the Secretary of Defense to place the responsibility for the administration of forces from one military department to be placed in the hands of another military department.

There may be times when the support of such combatant commands should be placed in the hands of one military department for the purposes of efficiency and economy, but the administration of such forces carries with it far greater connotations dealing not only with discipline, promotion, and personnel policies, but could conceivably be construed to include almost all policies under which the military department operates and are separately organized. The Senate conferees agreed to the deletion of the words "except when the Secretary of Defense determines that for the purposes of efficiency such responsibility should be assigned to another military department."

The Senate amendment also provides a statutory basis for the National Guard Bureau, including its Chief. The House agreed to this portion of the Senate amendment.

In addition, the Senate amendment provides that the elimination of three Assistant Secretaries of the military departments plus the reduction from 9 to 7 of authorized Assistant Secretaries of Defense, should not become effective until six months after the enactment of this legislation. The House conferees agreed to this provision.

All other provisions of the Senate amendment which were agreed to by the House conferees are technical in nature and deal with

code references, changes in section numbers, and the elimination of unnecessary language.

CARL VINSON,
OVERTON BROOKS,
PAUL J. KILDAY,
CARL DURHAM,
By R. W. S.
L. MENDEL RIVERS,
L. C. ARENDS,
L. H. GAVIN,
JAMES E. VAN ZANDT,
WILLIAM G. BRAY,
Managers on the Part of the House.

AUGUST WIDMER

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 7729) for the relief of August Widmer, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 3, after "act" insert "*: Provided further,* That the exemption granted herein shall apply only to a ground for exclusion of which the Department of Justice or the Department of State has knowledge prior to the enactment of this act."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

RELIEF OF CERTAIN ALIENS

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the resolution (H. J. Res. 589) for the relief of certain aliens, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out lines 3 to 8, inclusive, and insert "That, for the purposes of the Immigration and Nationality Act, Annie Bertha Yarnold shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee: *Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited or prescribed by section 213 of the said act."

Page 1, strike out line 11 and insert "Ngow Lee), and Maximo C. Angeles."

Page 2, after line 20, insert:

"SEC. 4. For the purposes of the Immigration and Nationality Act, Helen Demouchikous shall be held and considered to have been lawfully admitted to the United States for permanent residence as of September 17, 1948, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

LEGISLATIVE BRANCH, APPROPRIATION BILL, 1959

Mr. NORRELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 13066) making appropriations for the legislative branch for the fiscal year ending June 30, 1959, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. NORRELL, KIRWAN, ROONEY, CANNON, HORAN, BOW, and TABER.

CALL OF THE HOUSE

Mr. SPRINGER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 140]

Ashley	Gordon	Radwan
Bass, Tenn.	Gwinn	Sadlak
Boggs	Hoeven	St. George
Buckley	Hoffman	Shuford
Burdick	James	Smith, Kans.
Dies	Jenkins	Talle
Dowdy	Kearney	Taylor
Eberharter	Minshall	Trimble
Edmondson	Morris	Vursell
Engle	Moulder	Watts
Feighan	Poage	Williams, N. Y.
Friedel	Powell	
Gavin	Prouty	

The SPEAKER. On this rollcall 393 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT OF 1930, AS AMENDED

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 12591) to extend the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. MILLS, GREGORY, FORAND, REED, and SIMPSON of Pennsylvania.

AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, S. 3420, as amended, which the Clerk will report by title.

The Clerk read the title of the bill.

Mr. JUDD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JUDD. Mr. Speaker, this motion comes under suspension procedure on the bill we considered Monday, so it takes a two-thirds vote to pass it?

The SPEAKER. The Chair thinks that is generally true.

Mr. JUDD. If one-third of the Members of the House——

The SPEAKER. That is not a parliamentary inquiry. The gentleman is trying to make a speech.

The question is, Will the House suspend the rules and pass the bill, S. 3420, as amended?

Mr. JUDD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. JUDD) there were—ayes 195, noes 52.

So, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MEDAL FOR DISTINGUISHED CIVILIAN ACHIEVEMENT

The SPEAKER. The further unfinished business is the question on suspending the rules and passing the bill H. R. 488 to provide for the conferring of an award to be known as the Medal for Distinguished Civilian Achievement.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMITTEE ON PUBLIC WORKS

Mr. FALLON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have permission to sit this afternoon during general debate.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

HOUR OF MEETING TOMORROW

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet tomorrow at 11 o'clock a. m.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 618 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S.

3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, House Resolution 618 makes in order the consideration of S. 3651, the Small Business Investment Act of 1958. The resolution provides for an open rule and 2 hours of general debate on the bill.

At the present time the business loan program of the Small Business Administration is limited to providing short-term and intermediate-term credit to small businesses when such loans are not available from private financial institutions. This bill establishes a Small Business Investment Division within the Small Business Administration. The Division is authorized to charter privately owned small business investment companies. An additional $250 million in appropriations to the existing revolving fund of the Small Business Administration is authorized to provide the financial assistance to help meet the initial capital requirements of these new investment companies, as well as for the expansion of their operations. Certain requirements must be met by these companies before loans can be made, and these requirements are spelled out in the bill.

These small business investment companies would, in turn, provide equity-type capital to small business concerns through the purchase of convertible debentures. The manner in which equity capital is to be furnished is set out in the bill. In addition, these companies may make long-term loans under certain conditions for 20 years. Such loans may be extended or renewed for up to 10 more years if necessary to aid in the orderly liquidation of these loans.

The bill also authorizes the SBA to make loans to State and local development companies to enable them to more effectively assist small businesses.

The Securities and Exchange Commission is authorized to exempt securities which are issued by small business investment companies from the regulatory provisions contained in the Securities Act of 1933 and the Trust Indenture Act of 1939; limited exemption from the Investment Company Act of 1940 is also included in the bill for those small business investment companies which may be subject to regulation under that Act.

It is hoped that the provisions of this bill will stimulate the availability of capital funds to small business since it is apparent that small business firms have a real need for long-term and equity type financing.

I urge the adoption of House Resolution 618.

Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN] and reserve the balance of my time.

Mr. ALLEN of Illinois. Mr. Speaker, I yield such time as he may require to the gentleman from Connecticut [Mr. SEELY-BROWN].

Mr. SEELY-BROWN. Mr. Speaker, I support the rule and I support the legislation made in order by this rule.

(Mr. SEELY-BROWN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SEELY-BROWN. Mr. Speaker, I rise in support of S. 3651, as amended by the House Committee on Banking and Currency.

As has already been stated, the primary purpose of the bill we are considering today is to make equity-type capital and long-term credit more readily available for small-business concerns. This would be achieved through encouraging the establishment of privately owned—and I emphasize the words "privately owned"—small business investment companies.

In order to do this job, the proposed legislation would provide financial assistance to help meet the initial capital requirements of these new investment companies and also for a proper expansion of their operations. These new investment companies would in turn make equity-type loans and extend long-term credit to the small-business concerns needing this type of help.

Also included in the bill is a provision which will make possible Federal assistance to State and local development corporations in order to enable them to provide help to small business.

This entire program would be carried out through a new Small Business Investment Division established within the Small Business Administration. No new agency is created. In order to carry out the provisions of this legislation a revolving fund of $250 million is authorized.

Since this program is an entirely new one and is "on trial," I favor very strongly a constant review by the Congress. Not only will this program be reviewed by the Committee on Banking and Currency, but since its funds must be obtained through annual appropriations, it will also be reviewed by the Committee on Appropriations.

This program does not compete with those presently being carried forward by our conventional financial institutions. In my opinion it gives these existing institutions an opportunity to provide even greater service within the proper limits of our free-enterprise system. Through their own participation in the establishment of privately owned small business investment companies they will be able to increase the service they are presently rendering the small-business community.

Mr. ALLEN of Illinois. Mr. Speaker, I know of no opposition to the rule. It is my understanding there may be some amendments offered. At this time I yield 2 minutes to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Speaker, I shall support this rule and I shall support the bill. However, at the request of many of my friends around the country and particularly at the request of the American Bar Association, in compliance and in line with the resolution of the American Bar Association, I propose at the proper time, during consideration of the bill under the 5-minute rule, to offer an amendment. The amendment deals with this proposition. This bill provides for Federal chartering of these profit corporations in the various States for a period of 3 years. The contention in the report is that the State laws are not properly devised to provide for the chartering and hence we need this 3-year arrangement.

The American Bar Association has made a careful study of all the State statutes and can establish beyond any question of a doubt that all of the States do have such legislation as will enable them to grant these charters. So I cannot for the life of me see why we should set up an additional bureaucracy here in Washington to grant the charters, charters of the very same sort that have been granted in the States ever since the beginning of the Republic.

At the proper time under the general debate, and I shall not delay the matter further at this time, I will discuss the matter further and read a memorandum given to me by the American Bar Association and its representatives and, as I say, I will offer an amendment at the proper time to strike out the provision for Federal charter for the 3 years, and have this function carried on in the States, where we have not only the necessary laws but all of the personnel already in existence trained in these matters to do the chartering of these organization to be created.

Mr. MADDEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. PATMAN].

(Mr. PATMAN asked and was given permission to revise and extend his remarks and include extraneous matter.)

THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. PATMAN. Mr. Speaker, the action which the House takes today on this Small Business Investment Act will be one of the most important actions taken in many years. This bill, if enacted, may well mark the turning point for small business in this country. I earnestly hope that the House will pass the bill without adding to it any further restrictive or crippling amendments.

THE PROBLEM IS WELL KNOWN

Now as to the problem the bill is intended to help solve, I believe this is well understood; and there is general agreement as to what the problem is.

We have a capitalistic, free-enterprise system in this country and we want to keep this system. One of the reasons, however, that the system has been moving toward monopoly is the capital squeeze on small business. The amount of capital required to organize and operate an efficient small firm has been in-

creasing. More machinery, more equipment, and more labor-saving devices of all kinds are required. At the same time, however, the number of families in the local communities with large amounts of personal wealth has been shrinking.

How, then, are small firms to obtain capital funds from the savings of large numbers of families whom the small-business man does not know on a personal basis? How are the savings of those families who would like to invest in small firms with good profit prospects to find their way to these firms? The big corporations obtain equity capital and they obtain long-term debt capital from the centralized stock and bond markets. Where is the machinery whereby small firms might have access to equity capital and to long-term debt capital? There is none. On this there is agreement. As the representative of the American Bankers Association told our Small Business Committee:

> The banks, as this committee knows, are not set up, they are not capitalized, they are not organized for the purpose of providing equity capital, and they are certainly not organized for the purpose of providing long-term loans.

This about sums up the problem.

THERE IS AGREEMENT ON PRINCIPLES FOR THE SOLUTION

Now as to the solution of the problem. There have been varying proposals, but almost everybody concerned with the problem has been in agreement on certain principles which are these:

First. It is entirely appropriate for the Federal Government to take action to assist private enterprise in finding a solution to its problem, particularly since in this case the problem affects the welfare of all of our people.

Second. In taking this action, we should have two goals for the system which we would help to set up. First, the individual investment decisions should be made not by a bureau in Washington, but by local businessmen who will be backing their decisions with substantial amounts of their own money.

The second goal of the system is that it should provide for private capital to come in and take over complete ownership and operation of the system, so that there will be no need for the Government to remain in these operations and the Government will be retired from any part in these operations.

A number of specific proposals to meet these goals has been considered. One proposal which was earlier given primary consideration is found in the small business capital bank bill, which was introduced by the Democratic members of the House Small Business Committee, Representatives EVINS, MULTER, YATES, STEED, ROOSEVELT, BROWN of Missouri, and myself.

After these bills were introduced in the House, the distinguished majority leader of the Senate, the Honorable LYNDON B. JOHNSON, introduced it in the Senate, and immediately set to work to try to obtain agreement on that bill. The upshot was that wide agreement could not be obtained, and I have reason to believe that the administration expressed a strong opposition to the bill.

As a consequence, Senator JOHNSON of Texas then had worked out and introduced the bill which is before us now—the Small Business Investment bill. I introduced the bill in the House, believing strongly that it is the best bill on which wide agreement could be obtained. The bill does not contain many of the provisions which I would like to see in it. Principally, it does not contain provisions for setting up a regional capital bank system which I believe is needed to assure a continuing program and one which will be fully attractive to private capital. It is, however, a good bill; it takes a giant step in the right direction, and in the Senate it has already received wide agreement. For the success with which the bill has met so far, the country is deeply indebted to the highly-skilled and devoted efforts of Senator LYNDON JOHNSON, to the chairman of the Small Business Subcommittee of the Senate Committee on Banking and Currency, Senator Clark, to the many years of skilled and devoted preparatory work which has been done by Senator SPARKMAN and other members of the Senate Small Business Committee, as well as to the very able and devoted staffs of the Senate Banking and Small Business Committees.

THE BILL SHOULD BE ACCEPTED WITHOUT SUBSTANTIVE AMENDMENTS

As I indicated on Tuesday of last week, I will offer a few amendments to the bill which I will discuss later. These are, however, merely conforming amendments. They will do nothing more than to give permanent authority to the program set out in this bill, in order to conform the bill in this respect with the change which has been made and accepted in the Small Business Administration bill, since this bill was passed by the Senate. The Small Business Administration will now have a continuing life until such time as Congress sees fit to terminate its authority; and so, too, the conforming amendments I will offer will put this bill on the same basis.

I hope that the Members will not insist ony any substantive changes in the bill, at least in any change which would further restrict the assistance to small business which is now contained in the bill. The House Committee on Banking and Currency has already adopted 10 amendments to the bill. On the whole these are restrictive amendments which tend to cut back or handicap use of the authority provided in the Senate bill.

Now as to what the bill does.

It authorizes an appropriation of $250 million to the Small Business Administration which will be used to aid in a new type of small-business financing. It is intended that small firms will be able to obtain through this program both equity capital and long-term loans, loans for periods of up to 20 years.

HOW INVESTMENT COMPANIES WILL BE FINANCED

The bill authorizes the formation of local small-business investment companies. These companies will be formed voluntarily, and they may be formed by as few as 10 local businessmen. If the SBA sees fit to charter such a company, the company is in business.

To begin operations, however, a small-business investment company must have at least $300,000 of capital. Of this amount it may botain half, or $150,000, from the Small Business Administration. In putting up this $150,000, the SBA will take from the investment company subordinated debentures. By subordinated debentures it is meant that these will not have the first priority claim on the assets of the investment company. They will stand much in the position of preferred stock in case of liquidation of an investment company.

The local company may then obtain additional risk capital from private sources, and it may obtain additional loans from private sources. In addition, it may obtain additional loans from the SBA on terms and conditions that are satisfactory to the SBA, but with one restriction which is set out in the bill. The restriction is that the SBA cannot lend to an investment company an amount which is greater than 50 percent of the capital of the investment company. So much for the way in which the investment company will obtain its funds.

INVESTMENT COMPANIES MAY INVEST IN OR MAKE LOANS TO SMALL CONCERNS

Now as to how the small-business investment company may make capital available to small firms.

It may do this in either of two ways. The investment company may make loans on convertible debentures of the small-business firm. This, however, gives an option to the small-business investment company of converting these debentures to stock in the companies at a later time, if it should care to do so. A second authority which the investment company has is to make outright loans to a small-business firm for a period running up to 20 years. It may make equity capital available to a small-business firm, in which case it will take in exchange for its capital, convertible debentures. These debentures will give the investment company the option of exchanging for common stock of the small-business firm at a later time, if the investment company cares to do so. In case an exchange is made, it will be made at a fair value of the stock determined at the time the convertible debenture is accepted.

In addition, the investment company may make loans to the small-business company which are so soundly secured as reasonably to assure repayment. Such loans may be made either by the investment company alone, or by the investment company in participation with private lenders.

Now there is a limitation as to the amount of capital which the investment company can put into any one small-business firm. Counting both the equity capital and the loan capital, if any, the investment company may not lend to any individual firm more than 20 percent of its total capital. In the case of loans, SBA will determine the interest rate.

So much for the methods of financing through local investment companies.

SBA MAY LEND TO STATE DEVELOPMENT COMPANIES

Under the authority contained in this bill, the SBA may also make loans to State-chartered development companies. The bill contains two authorities for this.

First, the SBA may make a loan to a State-chartered development company, for the general purposes of this act, provided only that it may lend the State development company no more than the company has borrowed from other sources.

In addition, the SBA may make other loans to both State and local development companies where the funds are to be re-lent to specific small-business firms, but such lending can be only for the purpose of plant construction, conversion, or expansion. The limitation on the amount of these loans is that the SBA may lend no more than $250,000 for each identifiable small-business firm involved in the project.

Interest rates on loans to State development companies will be determined by the SBA Administrator.

Let us now look at this bill as a whole and try to appraise it. What kind of program does it provide? Does it provide for a vast outpouring of Federal funds to small business? Does it create a subsidy for small firms which will bring about an unfair situation for their big-business competitors? Let us consider the size of the program first, as compared to the need.

FEDERAL FUNDS SMALL COMPARED TO THE NEED

According to authoritative estimates, such as those made by the Department of Commerce, business investment even in this recession year of 1958 will be in the neighborhood of $30 billion. This means that about $30 billion will be spent on new plants, new retail outlets, new business equipment of all kinds to expand or modernize physical equipment.

The question of who will make this tremendous investment is one of utmost importance to our free-enterprise system and to the welfare of the whole Nation. Will this expansion and modernization of business equipment be made almost exclusively by the big corporations, as has been the case in previous years? Or will small firms participate in better proportion than in the past?

The bill provides $250 million of Federal funds for the entire small-business program. This would be only a drop in the ocean even if the full $250 million were to be lent or invested in a single year. In other words, if the program provided not $250 million for all time, but $250 million a year, each year, these Federal funds would amount to less than 1 percent of the amount of new business investment being made each year.

FEDERAL FUNDS SMALL COMPARED TO SUBSIDIES TO BIG BUSINESS

Now how does this tiny amount of Federal funds compare with the Federal subsidies going to big business? Let me take just one example which is directly related to new investment in business equipment.

Since the beginning of the Korean hostilities, the Office of Defense Mobilization has given out some $28 billion in tax amortization certificates to business firms. This has been almost exclusively a big-business program and a big-business subsidy. The sketchy reports which have been made on this program in the past have indicated that big business received more than the lion's share of these tax amortization certificates. What are these certificates?

The general agreement is that these certificates are in effect long-term loans, and not only that, they are interest-free loans. The business firm receiving one of these certificates pays for new, modernized, or expanded business equipment out of taxes, usually within a period of 5 years. For example, a hydroelectric dam which would be good for 50 or 100 years can be written off out of taxes in 5 years. But the certificate is not an outright gift. Writing off a new plant in 5 years, instead of the normal 25 or 30 years, simply means that the company pays back what are in effect borrowed funds in future tax years. So this $28 billion of tax amortization certificates has amounted to $28 billion of loans to business—and mostly to big business—on an interest-free basis for about 25 to 30 years. Certainly, we are providing nothing in this program for small business which is nearly as generous; and the program which is provided will not begin to offset, or even up the Federal subsidies which have gone into big-business investment through this tax program alone.

LESS THAN THE ANNUAL INTEREST ON INTEREST-FREE LOANS TO BIG BUSINESS

I might add that while the tax amortization program was enacted on the theory of building up productive strength for defense purposes, in reality almost every conceivable kind of business has been eligible for these certificates and has received these certificates. About the only kinds of businesses which have not been considered as adding to our economic strength for defense purposes are entertainment, finance, insurance and real estate businesses.

How does the cost of this small-business bill compare with the tax amortization certificates of the past 8 years? We might compare it this way: If the companies that have received these certificates were paying interest on their interest-free loans from the Government at a reasonable rate, those interest payments would amount to several times $250 million each and every year. In other words, if these companies were paying 3 percent interest, this would amount to $840 million a year. So, the whole $250 million of Federal funds in this bill is less than 1 percent of the annual interest on the $28 billion of tax certificates that have been handed out, mostly to big business.

The $250 million in this bill is not, of course, to be made available in 1 year. It is the amount authorized to be made available for many years to come. And actually none of this money is being made available by this bill. The bill as it has been amended by the House committee only authorizes this amount of money to be appropriated. So, after we pass this bill, there is still a question whether any money will be appropriated for the program, and if so, when and how much.

BIG BUSINESS RAISES "COSTLESS CAPITAL" BY TAKING IT FROM THE PUBLIC

Big business receives many other kinds of subsidies which help it to raise capital. Probably the greatest and most direct subsidy of all comes about from the fact that most of the big corporations are so insulated from competition that they can raise all, or almost all, of the capital they want for expansion, taking it away from the public in the prices they charge for their products and services.

For example, how many times have we seen announcements from the steel industry over the past 5 years that the steel companies were raising prices because they needed money to expand productive capacity? How many times have we seen the big auto manufacturers build new plants out of funds which they have taken away from the public? The truth is that the big auto companies really do not need to go into the capital markets to get expansion funds. They simply add $50 or $100 onto the price of their automobiles to raise these funds which are over and above the amount of the profits they take in order to pay the stockholders handsome dividends.

In other words, by allowing the monopolistic corporations, the so-called administered-price corporations, practical exemptions from both the moral laws and the statutes against monopoly, the Federal Government is, in effect, giving these corporations the power to tax the public to raise whatever funds they wish to have for expansion and for other purposes. This is a subsidy for which the public pays and a subsidy which benefits only the existing stockholders and the corporate managements. According to the traditional principles of the capitalistic system, the corporation that wants to expand should go to the market for new capital and sell stock to those who want to invest in the new venture. But what the big corporations are doing is forcing consumers to make involuntary investments in the corporations and giving consumers no rights or returns for their investment.

TAX STRUCTURE SUBSIDIZES BIG BUSINESS INVESTMENT

Add to this the peculiarities of our tax system which practically force feed investment funds into the big corporations and we have a complex of Federal policies which is bound to channel investment funds into the big, already-established corporations. And as available investments funds are channeled into expansions of monopoly power, these funds are necessarily channeled away from new firms and away from firms that are insufficiently capitalized. What big stockholders would want to draw all of his share of the annual profits out of the corporation, knowing that he is going to reinvest a portion of

those profits? Why would any stockholder of sound mind want this and pay the individual income tax on income which is going to be reinvested anyway? Why not leave the income with the corporation to invest and avoid the income tax?

So, our tax structure provides still another subsidy. The big corporations not only have what is in effect the power to tax the public, they also have the power to relieve their stockholders from taxes on what they take away from the public.

Considering this Small Business Investment Act realistically then, it is an extremely modest program. It is a good program. It is necessarily experimental in many of its features and after it has been tested by practical experience, amendments to the program will no doubt prove to be needed. We cannot hope to write a perfect bill, a bill that will anticipate all of the problems likely to arise. But certainly this bill is no off-hand matter. A great deal of intense and careful work has gone into it. I hope the House will accept it. If the SBA makes a devoted and vigorous use of the authority which the bill provides, it will be a great forward step for small business. In this, SBA will have an extremely grave responsibility. If that agency fails to use promptly and vigorously the authority provided in the bill, if it fails to encourage local investment companies to form and to pursue the objectives of this bill, it will in the matter of a year or so kill off this program, kill off the small-business financing idea, and kill off the hope of maintaining small firms in our business system.

ESSENTIAL TAX PROVISIONS ARE YET TO COME

Now, there are certain tax provisions yet to come which are essential to the success of this program. These are provisions to fit the new investment companies which are to be formed under this bill into the tax structure.

As the bill was originally introduced in the Senate and in the House, it contained provisions to amend the Internal Revenue Code with respect to these new investment companies in two respects:

First, with reference to the investment company's position under the corporate income tax: There is a provision which would make 100 percent exempt from this tax the dividends which the investment company might receive on any stocks it may hold in small business firms. The normal exemption for corporations is 85 percent.

Second, with reference to the Federal income tax on individuals: There is a provision which would allow the individual who invests in the stocks of one of the local investment companies and suffers a loss on that stock, to treat this as an ordinary loss, rather than as a capital loss. And this would also allow the small business investment company to treat such losses as ordinary losses. In other words, this would extend to the small business investment companies, and to individuals investing in these companies the same kind of privilege which the 1954 Revenue Code gave to banks and trust companies with reference to their losses on investments in bonds.

Since the Senate acted on the bill before the House had acted, these two tax provisions were removed from the Senate bill for the reason the provisions are technically revenue measures, and such measures cannot constitutionally originate in the Senate. It is the Senate bill, with amendments, which is before the House today. It is our understanding, however, that the tax provisions have been incorporated in another bill, H. R. 8381, the Technical Amendments Act of 1957, and that an agreement has been reached with the Ways and Means Committee and the Senate Finance Committee that both the House and the Senate will be given an opportunity to vote on these provisions. This understanding is set out in the report submitted by our distinguished chairman of the House Committee on Banking and Currency to accompany the bill we are discussing today—House Report No. 2060, 85th Congress, 2d session, to accompany S. 3651, page 10. We trust that will be the case, because, as I have indicated, we feel that these amendments to the Revenue Code are essential to the success of this small-business financing program.

We have reason to be confident, furthermore, that the House will pass these provisions, if given a chance to vote on them. The action of the House on Monday in passing the Small Business Tax Revision Act of 1958 illustrates the basis of such confidence. The Small Business Tax Revision Act, while it provides only technical amendments and not a general tax reduction for small business, these technical amendments nevertheless provide substantial benefits for small firms. It is extremely heartening that the House passed that bill by a suspension of the rules requiring a two-thirds vote, and it passed the bill almost unanimously. This action has demonstrated that this Congress is aware and deeply concerned about the problems that are working against small business and wants to pass sound measures to correct these problems.

EXCERPTS FROM REPORT OF THE HOUSE SMALL BUSINESS COMMITTEE

Before taking up the conforming amendments which I will offer, I would like to insert at this point in the RECORD the introduction, the conclusions, and the recommendations from our Small Business Committee's report on this small-business financing legislation—from House Report No. 1889, 85th Congress, 2d session—and also two letters from a small-business man which are complimentary to our committee's report.

Furthermore, I commend to all the Members a reading of our Small Business Committee's entire report. The members of the Small Business Committee have, in my opinion, done a landmark job in their investigation, hearings, and report on this legislation. The members of the Small Business Committee, of which I am highly honored to be chairman, are as follows: Hon. JOE L. EVINS, Democrat, Tennessee; Hon. ABRAHAM J. MULTER, Democrat, New York; Hon. SIDNEY R. YATES, Democrat, Illinois; Hon. TOM STEED, Democrat, Oklahoma; Hon. JAMES ROOSEVELT, Democrat, California; Hon. CHARLES H. BROWN, Democrat, Missouri; Hon. WILLIAM S. HILL, Republican, Colorado; Hon. R. WALTER RIEHLMAN, Republican, New York; Hon. HORACE SEELY-BROWN, JR., Republican, Connecticut; Hon. WILLIAM M. MCCULLOCH, Republican, Ohio; Hon. TIMOTHY P. SHEEHAN, Republican, Illinois; Hon. ARCH A. MOORE, JR., Republican, West Virginia.

PROBLEMS OF SMALL-BUSINESS FINANCING

I. INTRODUCTION

The Select Committee on Small Business was reestablished in the 85th Congress by the House of Representatives on January 31, 1957 (H. Res. 56). By this resolution the committee was authorized to conduct studies and investigations of the problems of all types of small business.

One of the problems presented to the committee by representatives of small business said to be of vital importance are the difficulties faced in securing adequate capital. It was alleged that small business cannot survive and grow unless it can find the capital needed for use in day-to-day operations, research, and development, modernization, and expansion. The representatives of the Smaller Business Association of New England, Inc., a voluntary nonprofit association of small-business men, were among the first to present their views of this problem to the committee. Their presentation was well organized and effectively placed before the committee in a visual demonstration prepared by Technifax, Inc. The presentation was repeated near the beginning of each of the sessions of the 84th Congress and during each of the sessions of the 85th Congress.

Previously a number of studies had been made of small-business financing in the United States. One was made by the United States Department of Commerce in 1935. Others were made by Dun & Bradstreet, the Committee for Economic Development, the Subcommittee on Investment of the Joint Committee on the Economic Report in 1949, by the Federal Reserve Board in 1952 and again in 1955, and by the Department of Commerce in 1955. Almost without exception the conclusion was reached that under the existing setup of our economic structure that steps should be taken to assist in preserving—"an open door for investment in little and local businesses in terms of ownership as well as in terms of debt."

On May 5, 1950, the President of the United States presented to the Congress a message regarding the problems of small-business financing (see H. Doc. 584, 81st Cong., 2d sess.). In that message the conclusion was reached that financial institutions are not meeting the expansion needs of small business. It concluded with the words: "This gap should be filled. * * * I, therefore, urge the enactment of legislation * * *."

When the House Small Business Committee adopted its program of study and investigation of the problems of small business on March 12, 1957, it included as one of its principal projects a study of the problems of small-business financing. Soon thereafter the chairman of the committee sought up-to-date factual information on the subject from the Board of Governors of the Federal Reserve System. The following exchange of correspondence took place:

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
OFFICE OF THE CHAIRMAN,
Washington, D. C., May 10, 1957.

Hon. WRIGHT PATMAN,
House of Representatives,
Washington, D. C.

DEAR MR. PATMAN: This is in reply to your letter of April 30 expressing interest in certain data relative to small-business financing along the line of material included in the Board's survey of bank loans to business as of October 1955.

There is a very real need for solid information on the financial position and problems of small business that goes far beyond the type of data obtainable by surveying bank loans. That need is for the best and most comprehensive factual and analytical material it is possible to develop on this matter of wide and vital interest.

This is a question with which the Board has been concerned for some time. However, it is not a matter of concern to the Board alone, nor one exclusively in the Board's domain. The matter is of equal concern to a number of committees of the Congress and several departments and agencies of the executive branch.

The problems of small business, in respect to credit and capital and related matters, have, for example, drawn the attention for some years of the Small Business and the Banking and Currency Committees of the House and Senate, the Joint Economic Committee, the Council of Economic Advisers, the Commerce and Treasury Departments, the Small Business Administration, the Federal Trade Commission, the Securities and Exchange Commission, and others. Also, the subject will doubtless be of interest in connection with the study of financial matters that the Senate Finance Committee is planning at this time.

If the true needs for information relative to the financing problems of small business are to be met, it would appear to us highly desirable that an effort be made on the part of all these groups to formulate means of arriving at material that will at once be comprehensive and broad enough to cover the informational requirements of these groups and be of a scope and quality satisfactory to all. The Board would cooperate to the full in efforts to formulate and carry out such a study. The Board recognizes that such an undertaking would involve a considerable expenditure of time and money. To be worthwhile, such an undertaking would have to be comparable in breadth of coverage to the study of consumer installment credit undertaken by the Board at the request of the President. As you know, this study required about 12 months' intensive efforts of part of the Board's comparatively small staff, plus the use of several outside survey and research organizations. As you further know, that study entailed direct costs approximating $380,000.

The necessity for such a comprehensive undertaking has been highlighted by efforts in the past, both on our part and on the part of others, to obtain certain limited information by means readily at hand. Recently, for example, we developed what we believed to be revealing data on the trends in bank lending to businesses of various sizes from a quarterly survey on interest rates charged by banks on business loans. The information has been given to members of your staff. This material, while informative as far as it goes, is not sufficient to meet the basic needs which you, as well as we, have in mind.

The same inadequacy is true, unfortunately, for the type of information obtainable in a bank-loan survey. Such a survey would be extremely complicated and time consuming, yet would add little to the data on bank financing of small business available from the existing quarterly survey and the regular call reports.

In view of the above, the Board has requested our Director of Research, Mr. Ralph A. Young, to deliver this letter to you personally and to discuss the matter with you.

Sincerely yours,

WM. MCC. MARTIN, *Jr.*

JUNE 25, 1957.

Hon. WM. MCC. MARTIN, Jr.
Chairman, Board of Governors of the Federal Reserve System, Washington, D. C.

DEAR MR. MARTIN: This is with further reference to your letter of May 10, in which you suggest the possibility of a broad study of small business financing problems which would meet the needs and interest of several other committees of both the House and the Senate.

Frankly, when Mr. Young brought this letter by my office and presented it as an alternative to my earlier request for information on small-business financing, I was not favorably impressed with the suggestion since, among other reasons, it occurred to me that a proposal which hinges upon obtaining cooperation and agreement among so many different committees would unnecessarily delay matters.

After further reflection on your letter, however, and upon rereading it, I am now of the view that your suggestion for a broad fully rounded study of all aspects of small-business financing is one of considerable vision which I did not immediately appreciate.

Consequently, I am now exploring this proposal with some of the other committees which you mentioned, and it seems to me quite possible that this will eventuate in a later request for a study of the kind that you have suggested.

I am,

Sincerely yours,

WRIGHT PATMAN.

On May 20, 1957, the chairman of the committee wrote to officials of the leading banking and life-insurance institutions, requesting their assistance in accumulating factual data on this subject. Those requests prompted lengthy conferences and negotiations with representatives of life-insurance companies and leading banking institutions and their representatives in the American Bankers Association. The result was the working out of an arrangement providing for the life-insurance companies to make a survey of their activities respecting small business and report the results of that survey through the offices of the research director of the Life Insurance Association of America. An additional understanding was reached that the requests submitted to the leading banking institutions would be held in abeyance providing that they and other member banks of the Federal Reserve System cooperated in the making of a survey to be conducted under the supervision of the Board of Governors of the Federal Reserve System regarding the advances of finances by members banks to small-business concerns.

A comprehensive report was submitted to the committee by the research director of the Life Insurance Association of America. It appears in the record of the committee's hearings on the problems of small-business financing, pages 125–185. Parts I and II of the study on financing small business, which was conducted under the supervision of the Board of Governors of the Federal Reserve System, were put in writing and reported on April 11, 1958, to the Committees on Banking and Currency and on Small Business of the Senate and the House.

In the meantime, the House Small Business Committee has continued its study of the problem. Hearings were held November 19, 20, 21, and 22, 1957, and on April 16, 17, and 28, 1958. The record of those hearings contained 607 printed pages, and includes the testimony of a large number of prominent experts in the world of finance. The Chairman and all members of the Board of Governors of the Federal Reserve System testified, as did 4 of the presidents of the 12 Federal Reserve banks. The Secretary of the Treasury and other high policymaking officials of the United States Government appeared before the committee and testified. The president of the Committee for Economic Development and representatives of other private research organizations presented their views for inclusion in the record. The record is replete with statements setting forth the views of representatives of small business.

* * * * *

VI. CONCLUSIONS

Financial needs of small business

1. Financial needs of small business can be divided into short-term credit, which is credit required for period of less than 1 year; long-term credit, which is credit required for periods in excess of 1 year; and equity financing, which is permanent investment capital.

2. Short-term credit is not as much of a problem as long-term financing. About two-thirds of small firms are in retail trade and service industries. In these lines working capital needs, some of which are of a seasonal nature, are apparently fairly adequately, even though expensively, taken care of by commercial banks, business suppliers, and specialized financial institutions, such as sales and finance companies. An additional fifth of small business is accounted for by wholesale trade and construction, where the short- and medimum-term credit facilities of existing institutions do not present the problem in long-term financing.

3. Although the largest segment of small business, retail trade, needs mainly short-term credit, most of the unsatisfied demand of small business in general is for long-term loans, equity, or equity-type capital. This demand arises from firms that are able and willing to grow. It is usually the small business with ambition to grow, and to grow rapidly, that is most aggressively seeking additional funds.

4. Although the core of the small business financing problem seems to be in the manufacturing area, small firms in some segments of the service industries, as well as the mining, construction, and trade fields, have financing problems. The unsatisfied demands that appear to have greatest economic justification are mostly those of new firms or concerns with new lines or processes. Such firms need working capital as well as funds to finance plant and major equipment installations. This need is for long-term credit or equity capital.

5. The major needs of small businesses for long-term loans or equity financing are to provide venture capital at the inception of a new business; capital for growth of the established small business which includes expansion needs and survival or maintenance of market position; and funds for continuity of the business or transference of ownership; sometimes necessitated by death of one partner or part owner and sometimes by estate tax problems.

6. Many small businesses are in the short-term capital market because of the inadequacy of long-term capital. A small business operator on friendly terms with his banker may actually borrow on a short-term basis with both himself and the banker knowing that he intends to renew the loan at maturity. Thus, a series of renewals of short-term loans is in reality a long-term loan. The banker enters into this relationship to help the small-business operator until he can establish long-term credit while the business-

man himself is forced into the short-term credit arrangement as being the only means of securing capital. Should long-term capital be made available to small business in greater amounts, additional short-term capital would be freed to satisfy the unsatisfied demand for short-term capital.

7. If a dynamic small-business community is to be maintained, equity and long-term financing facilities must be provided to permit small business to grow. Therefore, the balance of this summary will deal with equity and long-term debt financing.

Sources of equity and long-term debt financing

1. Sources of capital for business growth are retained earnings, debt, and equity financing. Because of the tax structure and the decreasing value of the dollar, the extent of growth from retained earnings is severely limited.

2. Long-term debt and equity financing of small businesses by the major financial intermediaries such as banks, insurance companies, large institutional investors, small investment funds, personal trust funds, and pension funds is negligible because these financial intermediaries seek seasoned securities in large blocks with active national markets. There is no incentive to seek out riskier investments or to invest in small amounts in small concerns.

3. Current business-loan programs, centered on the Small Business Administration, but also involving the Veterans' Administration, are essentially limited to the provision of intermediate-term credit for working-capital purposes. They do not provide equity financing. Government financing of small business has not been large. At the end of 1957, the combined loan and commitment total for SBA and VA was equivalent to less than 4 percent of small-business loans actually outstanding at member banks a few months earlier.

4. The lending activities of development credit corporations created in recent years has, likewise, been small. At the end of 1957, it was about 2 percent of small-business loans of commercial banks in the States in which development credit corporations were active.

5. When the small-business operator is able to obtain a loan, he pays a much higher rate of interest than his large-business counterpart.

6. Equity capital is provided through the public sale of securities in the capital market and through private sale. When small security issues are offered, the cost of flotation is considerably greater than for large issues.

7. From the standpoint of private sale of securities by the small-business operator, even if he has access to private investors, he is limited to a relatively small number of investors who may be willing to provide capital only at a relatively high cost or who do not have sufficient knowledge to judge the prospects of the firm, in particular when the concern is new.

8. Small firms have obtained equity funds mainly through personal, informal contracts. Personal sources make for an uneven distribution of available equity funds with the result that among firms with equally valid claims to additional resources, some may obtain them and others not.

9. Wealthy men, as individuals, as partners in investment banking houses, or as corporate officers, are the backbone of the venture-capital market for small business.

Need for Government assistance

1. A properly functioning economic system should allocate financial resources according to the potential profitability of their use, without regard to the size of the receiving unit. Since the Government controls the financial mechanism of our economy, it becomes the responsibility of public policy to keep the process of allocation of financial resources from being disturbed or distorted by imperfections in the financial mechanism.

2. Provision for anticipated and realized losses is an important expense item in the operating results of Government credit programs. This risk element in a borrowing clientele previously denied credit by private lenders is a major deterrent to any private program. Many innovations in private lending practices to small business have come through the leadership of Government and following direct-lending programs by Government agencies. Unless private capital can lead the way, it is up to the Government to lead and experiment in providing adequate sources of equity and long-term debt capital to small business.

3. The program should be set up to encourage the development of private institutions to take over the financing program once the Government has led the way and established the program.

4. Emphasis should be placed on security for the loan, including insurance on the life of the small-business operator where practical, and maximum investment by the small-business operator to the reasonable extent of his ability.

5. The procedure of loan processing should involve intelligent planning on the part of the small-business operator and counseling on business planning and management by the administrators of the program.

6. Loans evidenced by debenture bonds under any program should be considered partly equity and partly loaned funds. There is a very narrow line between equity and loaned funds when the collateral is insufficient to cover the loan in the event of a mistake in business judgment. In effect, long-term debt many times substitutes for capital deficiency. The successes wherein the equity portion of successful ventures would yield high returns would be required to offset the loans or equity capital furnished to ventures which turned out unsuccessfully.

7. There should be flexibility in the administration of the program, administration not by a set of rigid rules or formulas applicable to all business regardless of type, but rather administration on the basis of intent of the program which is to lead the way for the channeling of private funds into long-term debt and equity financing for the small-business community.

8. The program should provide for and encourage immediate participation by private individuals including dissemination to potential investors of the functioning of the program, its purposes, and investment opportunities. Through the program the Government could encourage private capital such as the many small investment clubs in local communities to invest in local small businesses in need of financing for the mutual benefit of both.

Summary

1. The committee concludes and finds there is a gap in the existing structure of financing institutions, which lies in the areas of long-term debt and equity capital for small business. The result is that small-business concerns are faced with a real difficulty in obtaining on any reasonable terms the volume of long-term loans and equity capital required for adequate growth and development.

2. Where the existing structure of financing institutions provides long-term debt and equity capital for small business, small-business concerns are under handicaps and at disadvantages when compared to the financing of larger concerns. This is true because—

(a) Small concerns are required to provide gilt-edged securities in the form of mortgage bonds in order to secure long-term financing, while larger concerns are required, as a rule, to provide only unsecured debenture bonds; and

(b) The smaller concerns usually are required to pay substantially higher interest rates on borrowed money than the larger concerns are required to pay.

3. Federal Government leadership is required in authorizing, promoting and assisting in the establishment of new facilities to provide long-term loans and equity capital for small business. It is only through such leadership and action that facilities for financing small business can hope to succeed in building a national market with public acceptance and purchase of securities based, in turn, upon the securities provided by individual small-business concerns for needed capital.

VII. RECOMMENDATIONS

The committee recommends that legislation be enacted promptly which would provide for Federal Government leadership in authorizing, promoting, and assisting in the establishment of new facilities (for example, small-business investment associations) to provide long-term loans and equity capital for small business. It is further recommended—

1. That the establishment of such new facilities should provide for a national market including public acceptance and purchase of debenture bonds in exchange for the capital needed in providing long-term and equity capital for small business;

2. That the legislation should provide for ultimate private ownership of the newly established facilities even though some financing by the Federal Government is required initially;

3. That the policymaking powers regarding the financing of small-business be placed in the hands of officials not in a position to exercise Cabinet control over it; and

4. That the legislation should provide to the greatest extent, consistent with good management, for removing from Washington and Federal Government bureaucracy to the grassroots and into the hands of small-business men the power of decision regarding the financing of any specific business enterprise.

EDWARD J. VAGIM & CO.,
Fresno, Calif., June 27, 1958.

Mr. WRIGHT PATMAN,
Chairman, Select Committee on Small Business, House of Representatives, Washington, D. C.

DEAR MR. PATMAN: I am enclosing copies of two letters addressed to Mr. B. F. SISK, the Representative from this district.

Having been a small businessman for all of the years since I left high school 25 years ago I have been vitally interested in the activities of Congress in all matters pertaining to small business.

The subject report is a masterpiece and I hope that it will be the foundation upon which simple and adequate legislation will be promptly enacted.

My sincere thanks to you and every member of your committee for a job well and expertly done.

Sincerely yours,

EDW. J. VAGIM.

EDWARD J. VAGIM & CO.,
Fresno, Calif., June 27, 1958.

B. F. SISK,
Member of Congress, House Office Building, Washington, D. C.

DEAR BERNIE: The report of the Select Committee on Small Business of the House was received and I thank you very much for it.

I have just finished reading the report and want you and the committee to know that I think it is one of the most lucid and concise Government reports that I have ever encountered. The people who prepared this report have covered the entire field of small

business financing in a most comprehensive and intelligent way. Every small-business man should be encouraged to read the report.

Now may I direct your kind attention to the summary and the recommendations at the bottom of page 108 and on page 109. Let's get on the ball and do something about this need. If you have read the report you will know that it is replete with platitudes offered by various groups and individuals over the years. Now that the committee has isolated the problem and posed it in a recognizable way, I hope that Congress will have the courage to tackle and solve it with concise and simple legislation along the lines of the farm credit system.

I am positive that the continued growth and prosperity of our great country will be tremendously enhanced by this kind of legislation. Please send me two more copies of the report as I want to do what I can to stimulate interest in the legislation here. I am writing a separate letter to you in connection with special working capital problems that must be met by small business engaged in the processing of fruits here in California.

Very truly yours,

EDW. J. VAGIM.

Now as to the amendments which I will offer.

The first is intended to remove any time limitation on the authority of SBA to charter small-business investment companies. The amendment is as follows:

Strike lines 9 and 10, page 10, being the last two lines of section 301 (a).

The second amendment will eliminate the time limitation within which State development companies may, with the approval of the SBA, be converted into federally chartered investment companies. This amendment is as follows:

Strike the words "prior to July 1, 1961," and revise the remainder of line 21, page 23, being the first line of section 401 (a), to read as follows: "Any investment."

The third amendment will eliminate the time limitation within which SBA may make loans to State development companies. The amendment is as follows:

Strike lines 16 and 17, page 27, being subsection (6) of section 502.

House Report No. 2060, as does Senate Report No. 1652, explains that the termination date of June 30, 1961, of the authority of the Small Business Administration to charter small-business investment companies was placed in the bill with the thought that within 3 years all States should be in a position to enact the necessary enabling legislation to provide for the chartering of small-business investment companies to operate under this program. Consequently, it was thought that the chartering function in the Small Business Administration would be unnecessary after June 30, 1961.

It is believed that since SBA has now been approved as a permanent agency, the chartering of small business investment companies by SBA should not terminate June 30, 1961. We should not burden any State with the necessity of chartering small business investment companies in order to insure the help we are trying to provide for small business. Perhaps in State A small-business men will form small business investment companies before June 30, 1961, but will not get around to doing that in State B before July 1, 1961. Therefore, unless S. 3651 is amended as I propose, State B will, of necessity, be burdened with the function of chartering small business investment companies or small business in that State will then be left without the financing facilities we are seeking to provide.

Of course it is recognized that in about 20 States where State and local development corporations are now in existence, extra means are provided in S. 3651 for supplying small business with needed financing. Small business in those States without State and local development corporations are in a less fortunate situation. For that reason we should make certain that no provision in the bill will operate to restrict in the future small-business men from forming small business investment companies in those States where State and local development corporations do not exist. For that and other reasons I have mentioned, the amendments I propose should be adopted.

I see no real reason for opposition to these proposed amendments. Therefore, it is hoped that they will be adopted.

Now as part of the background to this legislation, I believe the Members will be interested in the following summary of the history of the development and growth of State development companies.

STATE DEVELOPMENT COMPANIES

Although community industrial development corporations have existed for more than 50 years and are now present in several thousand communities of the Nation, similar privately financed State development credit corporations first came into being with the formation of the Maine Development Credit Corporation in 1949. Quickly the idea took root and spread throughout New England. All States in that region have formed State development credit corporations and all are actively functioning except the one in Vermont. A State-sponsored development credit corporation was established in the latter State in 1953. Since then, the idea has spread with the result that State development credit corporations have been formed in 11 States in other areas and their formation is proposed in 15 additional States in various sections of the country.

The following tabulations list the States in which State development credit corporations have been formed showing the dates on which they were formed and whether they are active or inactive:

TABLE I.—*Active State development credit corporations in the New England area*

State:	Year of legislation
Connecticut	1953
Maine	1949
Massachusetts	1953
New Hampshire	1951
Rhode Island	1953

TABLE II.—*Active State development credit corporations in areas other than New England*

State:	Year of legislation
North Carolina	1955
New York	----

TABLE III.—*Inactive State development credit corporations*

State:	Year of legislation
Arkansas Development Finance Corp.	1957
Florida Development Credit Corp.	1955
Georgia State Credit Corp.	1955
Hawaii Business Development Corp.	1957
Kansas Development Credit Corp.	1955
Michigan Development Credit Corp.	1956
Minnesota Business Development Corp.	1957
South Dakota Business Development Corp.	1975
Vermont Development Credit Corp.	1953
Wisconsin Industrial Credit Development Corp.	1955

TABLE IV.—*States where development credit corporations proposals are pending*

Alabama, Alaska, Arizona, Illinois, Kentucky, Montana, New Jersey, New Mexico, North Dakota, Oregon, South Carolina, Tennessee, Virginia, Washington, West Virginia.

TABLE V.—*States or Territories in which industrial credit authorities are active*

Pennsylvania, Mississippi, Puerto Rico.

The State industrial authorities are to be distinguished from State development corporations in that the State development corporations are privately financed organizations while the industrial authorities are publicly owned or publicly supported.

From the foregoing tables, it is shown that of the 48 States 7 have active State development credit corporations, 2 have active State industrial authorities, 10 have inactive State development credit corporations, and in 15 proposals are pending for the establishment of State development credit corporations or authorities, thus accounting for action in that regard in 34 States.

The North Carolina Business Development Corp. is the only true active credit corporation outside of the New England area. The New England area has active development corporations as above noted in the States of Maine, New Hampshire, Connecticut, Massachusetts, and Rhode Island. Although the earliest corporation in the New England area was Maine, established in 1949, the most active and the most successful is the Massachusetts corporation, which was established in 1953. In fact the Massachusetts corporation appears to be the prototype for most of the activities which are now taking place through the corporations, not only in New England but in other areas. Therefore, a discussion of the Massachusetts Business Development Corp. would appear to be of value.

The Massachusetts Business Development Corp. operates on the philosophy that small- and medium-size businesses need long-term capital to expand and stay in business under conditions of rising working capital requirements. That factor is to be distinguished from the need for short-term credit. House Report 1889 from the House Small Busi-

ness Committee, June 19, 1958, on the problems of small-business financing discussed in detail small-business needs for equity and long-term capital and pointed out that day-to-day and short-term financing of small business is far less of a problem than that of long-term financing.

Although there are differences in the details of their organization and operations, the State development corporations do not differ fundamentally. The stock in each is sold to public utilities, industrial and commercial enterprises, and to individuals interested in the economic welfare of the State. Members of a corporation, who are banks and insurance companies, agree to lend a small part of their resources on a pooling arrangement so that a small amount from each of many members creates a sizable loan pool. The outstanding loans from members cannot exceed a certain ratio. In Massachusetts, for example, the maximum is $8 debt for each dollar of share capital. This ratio varies among the States. The ratio in Massachusetts is 12 to 1, in Connecticut 10 to 1, but in most instances the corporations have not yet sold enough stock to enable them to borrow the full amount already pledged to them from member lending institutions.

There is a close connection in the administration of the State development corporations with the executive personnel of the lending banks and insurance companies. Ordinarily a State development will not make any loan that a member lending institution itself will make to the applicant for the loan.

The potential resources of the existing State development corporations are far greater than the amounts which have been pledged by their lending members. In Massachusetts the lending members have pledged about $11 million out of a potential of approximately $20 million. Therefore, the problem appears to be one of selling more shares of stock in many of the States that have the State development corporations. The capital stock authorization for the State development corporations ranges from $150,000 in Maine to $4 million in Massachusetts. Originally the development credit corporation of Maine had an authorization for only $50,000 capital stock. It subsequently was increased to $150,000 and only $92,000 has been sold. Of the $4 million authorized capital stock of the Massachusetts Business Development Corporation, $763,510 had been sold as of June 30, 1957.

The limitations upon the growth of the State development corporations in New England and elsewhere are fixed by the limit of the amount of funds available, the limit of the cooperation of lending members, and to some extent by the limit of the borrower-demand factor.

The borrower-demand factor appears to be elastic. It grows as funds are found to be available and can be secured by small business concerns filing formal applications with the development corporations. However, the record regarding the handling of such formal applications by State development credit corporations is much the same as the record of the handling of formal applications for loans by SBA. In other words, high standards have been set for approval. The result is a high rate of rejections.

In Massachusetts of the 204 formal applications received, 110 were rejected. In Connecticut of the 172 formal applications received, 120 were rejected. In Maine of the 238 formal applications received, 167 were rejected. New Hampshire rejected 42 out of 89 formal applications received; Rhode Island rejected 75 out of 96; and North Carolina rejected 54 out of 86 formal applications. The New York Business Development Corporation was more liberal and apparently did not adhere to such a rigid standard as was adhered to by the corporations in other States. It rejected only 51 out of 129 formal applications.

In New England the interest rates on loans made by the development corporations have been as low as 5 percent in Maine, but most of them have adhered to the 6 percent interest rate. Only two or three of the State development corporations have added a service charge to the interest rate. In those instances it has been 1 percent of the net amount of the loan for the first year. When the State development corporations secure funds from members for lending, it is usually borrowed from them at ¼ of 1 percent above the prime rate, but in some of the newer proposed corporations it would vary from 2 percent down to ¼ of 1 percent above the prime rate. These funds are usually borrowed by the State development corporations on paper having maturity from 6 months to 5 years.

In addition to funds secured from lending members, State development credit corporations have borrowed funds from the SBA. However, it appears that up to 1957 SBA had made fewer loans in the amounts of $100,000 or more in New England than had been made in that area by the New England State development corporations between the years 1949 and 1957. Although individual loans made by SBA in amounts of less than $100,000 were in far greater number, therefore, the aggregate amount loaned by SBA in New England was considerably larger than the aggregate amount of loans made in New England by State development corporations.

The State development credit corporations in making loans to business enterprises, although requiring security in the form of mortgages on buildings and in some instances on machinery and other types of equipment, have nevertheless shown more liberality than SBA in accepting such security, in that the State development corporations have been willing in many instances to accept second mortgage collateral on older properties and for longer maturities than banks, and often with greater liberality than afforded by SBA.

The average maturity of loans made by the State development corporations in New England is 6½ years. Seven percent of the maturities were from periods of more than 10 years.

The record of hearings—pages 524 to 526—before the House Small Business Committee on the problems of small-business financing contains summaries showing the amount of SBA business loans disbursed in those States and Territories which have active State development credit corporations or authorities, and in those which have inactive corporations as well as in those States where proposals are pending and all other States. That tabulation shows that in all States and Territories through September 30, 1957, SBA had disbursed business loans in the amount of $256,884,000. In New England and New York, where there were six active State development corporations, SBA disbursed business loans in the amount of $22,306,000, whereas the State development corporations had disbursed loans in the amount of $14,930,000. In the additional State of North Carolina, where there was an active State development corporation, SBA had disbursed business loans in the amount of $4,594,000, whereas the State development corporation there has disbursed business loans in the amount of $1,898,000.

The following tabulation shows the present status of State development credit corporations or industrial credit authorities comparing the loan activities of each with the dollars of SBA loans disbursed within each such State to and including June 30, 1957:

TABLE VI.—*Present status of State development credit corporations or industrial credit authorities, comparing loan activities with totals of SBA loans disbursed within each State*

Credit development corporation in State or Territory	Number of SBA business loans to Sept. 30, 1957	Amount of SBA business loans to Sept. 30, 1957	Number of State development credit loans to June 30, 1957	Amount of development credit loans to June 30, 1957	Stock sold June 30, 1957	Amounts pledged June 30, 1957	Amounts called	Number of formal loan applications	Number rejected	Loans repaid in full or part
Alabama [1] [2]	122	$5,703,000								
Alaska [1]	30	1,340,000								
Arizona [1]	48	1,778,000								
Arkansas Development Finance Corp. [3] [4]	161	5,648,000			$100,000					
California (none)	409	20,855,000								
Colorado (none)	111	2,823,000								
Connecticut Development Corp	53	3,134,000	31	$1,300,900	126,700	$1,805,000	$1,204,900	172	120	$129,669
Delaware (none)	13	544,000								

Footnotes at end of table.

TABLE VI.—*Present status of State development credit corporations or industrial credit authorities, comparing loan activities with totals of SBA loans disbursed within each State*—Continued

Credit development corporation in State or Territory	Number of SBA business loans to Sept. 30, 1957	Amount of SBA business loans to Sept. 30, 1957	Number of State development credit loans to June 30, 1957	Amount of development credit loans to June 30, 1957	Stock sold June 30, 1957	Amounts pledged June 30, 1957	Amounts called	Number of formal loan applications	Number rejected	Loans repaid in full or part
Florida Development Credit Corp.[4]	94	$4,615,000								
Georgia State Credit Corp.[4]	244	10,360,000								
Hawaii Business Development Corp.[4]	30	701,000								
Idaho (none)	44	2,607,000								
Illinois [1]	177	8,542,000								
Indiana (none)	150	6,340,000								
Iowa (none)	208	6,868,000								
Kansas Development Credit Corp.[4]	345	9,934,000								
Kentucky [1 2]	102	4,256,000								
Louisiana (none)	47	2,957,000								
Maine Development Credit Corp	42	1,993,000	53	$1,564,783	$92,000	$938,000	$768,700	238	167	$746,967
Maine Industrial Building Authority [3]										
Maryland (none)	48	2,527,000								
Massachusetts Business Development Corp	167	6,850,000	62	8,123,716	763,510	10,577,260	3,500,000	204	110	3,833,000
Michigan Development Credit Corp.[4]	158	10,392,000								
Minnesota Business Development Corp.[4]	192	6,753,000								
Mississippi Agricultural and Industrial Board [2 4]	64	3,519,000								
Missouri (none)	197	7,274,000								
Montana [1]	96	4,054,000								
Nebraska (none)	158	5,423,000								
Nevada (none)	12	772,000								
New Hampshire Business Development Corp	23	1,400,000	40	897,800	103,700	1,252,050	607,870	89	42	221,090
New Hampshire Industrial Development Authority [3]										
New Jersey [4]	123	5,564,000								
New Mexico [1]	26	1,351,000								
New York Business Development Corp	131	8,034,000	23	1,960,950	429,900	12,711,000	1,000,000	129	51	115,156
North Carolina Business Development Corp	91	4,594,000	32	1,898,000	1,000,000	4,326,000		86	54	
North Dakota [1]	51	733,000								
Ohio (none)	196	11,977,000								
Oklahoma (none)	94	3,447,000								
Oregon [1]	80	4,652,000								
Pennsylvania Industrial Development Authority	240	14,801,000								
Puerto Rico Industrial Development Co.[3]	58	1,154,000								
Rhode Island Development Co	24	895,000	18	1,082,750	152,000	1,657,000	704,000	96	75	482,587
South Carolina [1]	53	1,532,000								
South Dakota Business Development Credit Corp.[4]	49	1,461,000								
Tennessee [1 3]	147	5,878,000								
Texas (none)	348	16,976,000								
Utah (none)	28	1,467,000								
Vermont Development Credit Corp.[4]	29	1,568,000			47,000					
Virginia [1]	80	5,243,000								
Washington [1]	136	6,119,000								
West Virginia [1]	39	1,690,000								
Wisconsin Industrial Development Credit Corp.[4]	145	6,312,000			14,100					
Wyoming (none)	20	724,000								
District of Columbia (none)	16	750,000								

[1] Officials considering formation of State credit development corporations; with few exceptions, not yet in legislative bill stage.

[2] Mississippi, further advanced on revenue bond plan of local governments, but Alabama, Tennessee, and Kentucky in process: degree of supervision by State varies with more control in Mississippi and less in new proposals.

[3] Credit authorities, publicly owned or supported.

[4] Relatively inactive, or pending specific legislative proposal, or legislation has been repealed.

NOTE.—Maine pledged credit of State to insure loans to 90 percent made by financial institutions for construction or expansion of industrial buildings with a $500,000 revolving fund; Mississippi has a review board which approves revenue bond financing to acquire land and build for incoming industry; Pennsylvania State government lends money to local development corporations (30 percent of project) to bring in companies to new industrial sites in Pennsylvania, 100 percent financing is arranged; Arkansas $5,000,000 of bonds to be purchased by State; Puerto Rico, $19,000,000 from treasury of Puerto Rico.

(Mr. ROOSEVELT, at the request of Mr. PATMAN, was given permission to extend his remarks at this point in the RECORD.)

Mr. ROOSEVELT. Mr. Speaker, I want to take this opportunity to congratulate the able and experienced chairman of the House Banking and Currency Committee and its members for bringing to the floor of the House for consideration the Small Business Investment Act of 1958.

The purpose of the bill as expressed in section 102 of the bill—Statement of Policy—clearly and unequivocally in a most concise manner states the purpose of this legislation:

> The policy of the Congress and the purpose of the act to improve and stimulate the national economy, and particularly the small-business segment thereof, by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for sound financing and for growth, expansion and modernization, but which are not available in adequate supply. This program is to be carried out in such manner as to insure that private financing sources will participate to the maximum extent possible and that it will not result in increased unemployment in any area of the country.

The experiences I have had in investigating and studying the problems of small business as a member of the Select Committee on Small Business have clearly demonstrated to me and the other members of the House Small Business Committee that small-business concerns must have access to capital—equity and long-term capital—that there is a need for the program designed to supply long-term and equity-type financing to small business.

Our present commercial banking system is not prepared or equipped to meet this urgent need of small business.

All of the investigations held to date have clearly established that generally short-term and intermediate credit needs for small business are being met through existing financial institutions and Government agencies.

However, desperately needed long-term and equity type financing is lacking—it is, therefore, our duty to pass this legislation to assure small business that the type of financing so needed by it—but presently not available—be made available.

The solution of the problems of small business will not be found in merely granting short or intermediate type loans, the answer to small business is permanent capital which they may keep in operation and help small business grow and prosper.

The Senate in Report No. 1652—85th Congress, 2d session—has properly stated:

> The present financial institutions which do provide a source of venture capital are not able to assist smaller firms. The cost involved in the public sale of securities is prohibitive to small business issuers. As a result there is no institutional source to which small business may turn to meet its capital needs. Unlike large business concerns, small-sized businesses must seek long-term funds in a most haphazard fashion which, by its very nature, does not provide for the economic growth of small firms that is possible and desirable.

William McChesney Martin, Jr., chairman of the Federal Reserve Board of Governors, has stated:

> There is a gap in the existing structure of financing institutions which lies in the long-term debt and equity capital areas.

It is this institutional gap which this legislation is designed to fill.

This legislation is designed and conceived to carry out the following purposes:

First. To supplement rather than supplant existing private facilities.

Second. To operate under a simple and flexible organizational structure.

Third. To operate and be accounted for in complete separation from other Federal small-business programs.

Fourth. To utilize to the maximum possible extent the facilities of State and local development credit corporations, and

Fifth. To concentrate upon meeting the equity and long-term credit needs of small-business concerns.

There can be no doubt as to the need for this vital legislation. The responsibility is ours. Let us act quickly and effectively and pass it with an overwhelming majority.

Mr. SPRINGER. Mr. Speaker, I yield such time as she may desire to the gentlewoman from New Jersey [Mrs. DWYER].

(Mrs. DWYER asked and was granted permission to extend her remarks.)

Mrs. DWYER. Mr. Speaker, within the past month the Congress has taken action on three major pieces of legislation which, taken together, represent perhaps the most extensive assistance ever made available to American small business.

The present bill (S. 3651), to make equity capital and long-term credit more readily available to small-business concerns marks the climax in the dramatic series of new developments in the world of small business.

I wholeheartedly support this bill, as I earlier supported legislation extending and liberalizing the Small Business Act and the legislation providing tax revision and assistance for small business. All three bills are of great importance in themselves; they have been framed after long and careful study and with the benefit of considerable experience in the problems and difficulties of small-business men, and they have been designed to bring real help in meeting real problems, especially in the field of financing small business.

Congress has appreciated and been deeply concerned at the unfortunately high rate of small business failure as a result of the present business recession. It is encouraging, therefore, to note in this respect solid evidences that our economy has begun to take on new vigor, new energy, and has started on the upward road to healthy growth and expansion. The action of Congress at this time in dealing with several of the major problems of small business with such farsighted wisdom seems to be especially appropriate; by strengthening the basis on which small business is financed and by encouraging the means of successful small-business activity we are helping to stabilize this extremely important area of the American economy. And the increased strength and stability of small business can only serve the best interests of all our people in the future.

The legislation before us today is clearly the most striking departure from past patterns of Federal assistance to small business. While many proposals have been advanced and some legislation enacted in the general area of small-business financing during the past 25 years, none of the programs established to date have met the need of small business for equity-capital financing or long-term credit. The need for new sources of such long-range financing has been thoroughly established as a result of the experience of the interested congressional committees, the Department of Commerce, and the Small Business Administration, and the many organizations and institutions in the world of business which have dealt with this problem for many years. There is unanimous agreement that there is a major gap in the economy's present financial mechanism which prevents the small businesses of the country from obtaining needed long-term and equity-type financing.

The Committee on Banking and Currency and the Select Committee on Small Business deserve the thanks and appreciation of the Congress for the work they have done in helping to meet this need. The present bill is sound and reasonable and carefully designed to approach with major assurance a heretofore uncharted field.

As I see them, the major provisions of direct concern to small-business men of the country included in this bill are the following:

First. The bill establishes in the Small Business Administration a new and autonomous Small Business Investment Division, headed by a Deputy Administrator to be appointed by the Administrator of the Small Business Administration, who would exercise functions provided in this bill separately and distinctly from the other functions of the Small Business Administration.

Second. The bill authorizes an additional $250 million of appropriations to the existing revolving fund of the Small Business Administration, which additional funds can be used only to carry out the purposes of this Small Business Investment Act.

Third. The Small Business Investment Division of SBA is authorized to charter small-business investment companies up to June 30, 1961.

Fourth. Ten or more persons will be required to sign the articles of incorporation of a proposed Small Business Investment Company. Upon approval by SBA the Investment Company would be established as a Federal corporation with the usual powers necessary to do business. In giving its approval SBA must consider (a) the need for small-business financing in the area where the proposed company is to operate; (b) the character of the proposed management of the company; (c) the number of such companies already formed in the United States and the volume of their business; (c) other related factors.

Fifth. Each small-business investment company must have not less than $300,000 of paid-in capital and surplus before commencing business, and SBA is authorized to provide a maximum of $150,000 to such company through the purchase of subordinated debentures which would then be treated as paid-in capital.

Sixth. To encourage formation of such small-business investment companies, national banks are authorized to purchase stock, as are State member banks and nonmember insured banks where compatible with State law. No such bank may hold shares in these companies in amounts aggregating more than 1 percent of the bank's capital and surplus.

Seventh. SBA is also authorized to lend money to a small-business investment company up to a maximum not exceeding 50 percent of the paid-in capital and surplus of such companies. The company may also borrow additional funds from private sources under such conditions as SBA may prescribe.

Eighth. In turn, small-business investment companies are authorized to provide equity-type capital to small-business concerns through the purchase of convertible debentures, which are considered extremely suitable financing instruments for such a program, in view of their attractiveness to speculative investors who want an opportunity to share in the future prosperity of the business beyond the fixed claim of ordinary debt.

Ninth. Whenever an investment company provides capital to a small-business concern through purchase of convertible debentures, such concern must purchase stock in the investment company in an amount equaling from 2 to 5 percent of the amount of the capital provided, as a means of building up the investment of private funds and in due course making Federal participation unnecessary.

Tenth. Small-business investment companies may also make loans to small-business concerns, both incorporated and unincorporated, either directly or in participation with other lending institutions. The maximum interest rate is to be set by SBA, while the maximum maturity of such loans is 20 years, although an investment company may extend the maturity an additional 10 years to aid in the orderly liquidation of a loan.

Eleventh. The total amount which a small-business investment company may lend and invest in a single small-business concern may not exceed 20 percent of the combined capital and surplus of such investment company, without special approval of the SBA.

Twelfth. The bill authorizes certain exemptions from regulations of the Securities and Exchange Commission for securities issued by small-business investment companies, as a means of facilitating special financial activities. The Small Business Administration, however, may prescribe necessary regulations and limitations in this field.

Thirteenth. State chartered investment companies may also qualify for SBA loans and investments. Such a State chartered company may, with SBA approval, operate as a small-business investment company with the same rights and obligations as an SBA chartered company, or it may convert into an SBA chartered company with SBA's

approval by a vote of shareholders having a majority of the stock.

Fourteenth. The Small Business Administration may make loans to any State development company in a total amount not exceeding the amount borrowed by the company from all other sources. Approximately half of our States now have active State development companies or are considering proposals for establishing such companies, while approximately 1,800 communities have established local industrial corporations.

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BROWN of Georgia. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 3651, with Mr. WALTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky [Mr. SPENCE] will be recognized for 1 hour and the gentleman from Iowa [Mr. TALLE] will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I believe the Members of the House are familiar with the principal provisions of this bill. It is the Small Business Investment Act of 1958.

An appropriation of $250 million is authorized for the Small Business Administration to be used in furnishing capital to small-business investment companies. Each small-business investment company must have a minimum capital and surplus of $300,000. One-half of that must come from private sources; the other half is invested by the Small Business Administration.

After the organization of the small-business investment company, the Small Business Administration my lend them half of their capital and surplus, which would be at least another $150,000. So the Government will invest at least $300,000 in each of these small-business investment companies, if the companies desire to obtain that sum from the Government. Private sources must invest at least $150,000.

It is also provided that loans may be made to State development organizations, or local development organizations, for the purpose of securing sites and building plants. These loans may be made in amounts up to $250,000 for each small-business concern benefited. In that way the loan limit is multiplied by the number of small-business concerns which will benefit from the loan.

What is the justification for the Government's going into this field? There is no private financial institution designed to make loans for equity capital on a long-term basis as small businesses so often need, and as is so often necessary for their preservation. So the Government, if it wants to see that small business is preserved in the free enterprise system must give them some help.

Are we justified in doing this? Independence has been a great word in this country since 1776. The small-business enterprise in America is just as American as that declaration that announced our independence. If you want to continue as we have continued, if you want to open the door of opportunity to all who are willing to knock at it and to profit by it, you must preserve small business. I think there could be nothing more justifiable than these loans by the Government to preserve the institutions that have made America great, that have formed the character of its people, and that have carried out our aspirations and our hope. They are part of our national economy, they are part of the national life of America, they are part of the opportunity that is given to every young man to go into business for himself and to profit as his character and ability permit. That is something it seems to me that should be preserved, and I feel that this bill is essential to their preservation. There is no doubt but that in a competitive field the small-business man is at a great disadvantage. He cannot get this kind of credit.

The big institution that is nationally known, that has a financial status, that attracts the investing public to buy its debentures and obligations, has no trouble in acquiring this character of capital and of reserves. The small-business man cannot get that support. He has no established credit with the public. He must go to his bank. If he wants a 20-year loan his bank cannot make it. His bank cannot make a 20-year loan except on one subject and that is a mortgage on the home.

These loans are for 20 years, with a renewal opportunity of 10 more years. The loans that are to be made to the development companies for the acquisition of sites and the building of plants are for 10 years plus the period of construction. This is something that the small-business man needs. The question is whether you want to preserve him. I think you do. I know this will cost the Government but very little.

I remember when we organized the Home Owners Loan Corporation we made over $2 billion of loans to the home owners at the time of the deepest depression in 1933 and the following years. It saved the homes of many millions of persons. We made over a million loans and that must have saved the homes of 5 million people. When the Home Owners Loan Corporation liquidated they put 14 million dollars into the Treasury of the United States.

The loans provided for in this bill are good loans for good people, patriotic people, who have their own interest and the interest of the Government at heart. I am sure every businessman in America wants to pay his obligations.

The funds cannot be obtained except by an appropriation of $250 million. This will be paid back into the Treasury as these new small-business investment companies grow and prosper.

I ask you to vote for the bill and I think you will take great pleasure in doing so.

Mr. KILBURN. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, I am against this bill. I am against the principle of it because no matter how many investment companies the money goes through the Federal Government is furnishing money for risk capital. I do not think we have ever done that before. We certainly did not do that in the Home Owners Loan case. We had the house as security and if the people could not pay up we would take the house. Here the Government is putting money into risk capital in connection with a large or small business. If the business makes good the business takes the profit; if it loses money the Government takes the loss. That is why I am against this bill.

Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Chairman, unlike my colleague who just preceded me, I shall support this bill and vote for it on final passage. However, as I said in the brief remarks I made on the rule, there is a provision in here that I just think is completely unnecessary and should be taken out of the bill.

Before I go further, because some of you may not have been here, the provision to which I refer is an arrangement by which these charters of these private corporations will be issued by the Federal Government here in Washington, which simply means that if a group of individuals in your State or in mine want to get one of these charters, they come down here to Washington to get it, hire lawyers here in the District and proceed with the incorporation here.

I say that there is plenty of authority in the States to carry on that operation. I checked with my own secretary of state out in Indianapolis this morning who tells me that our law is most adequate; that they already have a staff of 4 men there in the secretary of state's office and that they can issue all of the charters that anybody out in Indiana may want.

The ostensible reason for putting this provision in the bill is found in the committee report at the bottom of page 6 running over to the top of page 7, which says this:

> Your committee has provided for a termination date (June 30, 1961) of the authority of SBA to charter small-business investment companies. Thereafter such companies must be chartered under State law and may be given permission to operate under this program provided they qualify and are approved by the SBA.

Of course, obviously, before the Government down here is going to let them have the money, they have to establish

that they are entitled to the money. Then the committee in the report says this:

Within 3 years all States should be in a position to enact the necessary enabling legislation to permit the chartering of small-business investment companies to operate under this program; consequently the chartering function in SBA will be unnecessary after June 30, 1961.

Now, then, the report does not mention a single, solitary State that does not have ample statutory authority at this time, and I call on the members of the committee who subscribe to this report to name the State that does not have adequate stautory authority at this time, because I will promptly call up the secretary of state of that State to find out.

This matter was called to my attention just a few days ago by different people around the country who are members of the American Bar Association and on particular committees in that association dealing with this particular problem, and I probably can best get at what I think ought to be done here by reading to you a letter addressed to me by Mr. Charles W. Steadman, of the Cleveland and Washington Bar Associations, confirmed by one of the eminent lawyers in my State out in Indianapolis, who addresses me in these words:

STEADMAN & COLLIER,
Washington, D. C., July 17, 1958.

Hon. CHARLES A. HALLECK,
House Office Building, Washington, D. C.

DEAR MR. HALLECK: This letter is with respect to certain provisions of S. 3651, which is pending before the House, and I am presenting this to you as the representative and on behalf of the American Bar Association.

Section 301 of S. 3651 provides for the Federal rather than the State incorporation of the small-business investment companies which would operate under this bill. These so-called small-business investment companies would be business enterprises organized for the purpose not of lending money to small business, such as banks or other lending institutions might do, but for the purpose of investing in small businesses to provide equity capital. The American Bar Association has taken an official position opposing such Federal incorporation provisions. The reasons for this opposition are embodied in my memorandum of July 7, 1958, which accompanies this letter.

I have a copy of that memorandum, and I shall include it with my remarks. The memorandum is as follows:

S. 3651 has passed the Senate and is pending before the House. It is a bill intended to provide financial assistance to small business and among other things for the establishment of "small-business investment companies." By virtue of section 301 these companies would be Federal rather than State corporations. They would be created in the exercise of broad discretionary powers by the Small Business Administration, which would issue a charter after having approved the articles of incorporation.

The apparent objective of section 301 is to give the Small Business Administration control over the form of organization of small-business investment companies as a requisite to their qualifying to do business and receive the benefits of the act. There may be considerable question as to whether this is desirable to the extent contemplated by the bill. Certainly, even if it were desirable, the method selected for its accomplishment raises some very disturbing questions.

The same problems are present here that were discerned in the suggestions made in the past for congressional legislation which would have provided for Federal incorporation of business enterprises. Such suggestions have never found favor. It has been opposed for the same principal reasons that hold it to be undesirable and stand in opposition to section 301 in this instance. These are: (1) Such legislation is an encroachment upon the historical and traditional power and authority of the States over the incorporation of business enterprise; (2) it raises serious constitutional questions respecting powers reserved to the States and those delegated to the Federal Government; and (3) it is unnecessary for achieving the objectives of the bill.

Let us examine each of these points.

1. Federal incorporation of business infringes upon a field historically governed by the laws of the States, and State incorporation and administration is preferable. The creation of business corporations, the form of their organization, and the conduct of their internal affairs has historically and traditionally been governed by the laws of the States. The whole body of corporate law in America has developed upon this basis. It would be unwise to disturb these concepts that have become such an important part of American commercial life. Such would be the result arising from the introduction of a new corporate creature coming into existence under Federal charter. There would be no certainty what rule of law would govern an action of a Federal corporation, the creation of which is authorized by section 301 in the multitude of circumstances which are there left without rule or direction, except perhaps for rules that might be devised by the Small Business Administration in its discretion. Section 301, it will be observed, contains only the barest statement of what the articles of incorporation shall contain and of powers which this Federal corporation would have. What is to happen with respect to the remaining questions which arise in the conduct of corporate enterprise is wholly unknown. To create such uncertainty would be unwise. The corporate laws of the States developing over a period of many years deal fully with these matters.

Federal incorporation of business enterprise here would provide a dangerous precedent, and would be a broadening of Federal authority in a field of law where the authority of the States has functioned effectively and well. The administration of corporate laws has developed in the States as a correlative to the power over business corporations which they have historically exercised. A group of administrators has grown up in each State under the secretaries of state skilled in the administration of business corporation law, and this work is being competently and effectively handled. Presumably, it would be necessary for the Small Business Administration to duplicate in a substantial measure work that is already being done very well by the States, and which the States are better qualified to do. Here it would seem to be necessary for the Small Business Administration to establish a staff to administer these incoporation provisions of the act, and ultimately to deal with all manner and kind of problems relating to incorporation which are completely unrelated to the purposes of the act.

In essence, the power over the incorporation of business and the administration of the laws governing incorporation are local in nature and can best be left as the responsibility of the States.

Federal incorporation under the National Bank Act should be distinguished from the situation at hand. There, Federal incorporation is predicated upon a special and limited circumstance unrelated to the situation contemplated by S. 3651. Small-business investment companies would not be banking institutions in the sense of those encompassed by the National Bank Act. These small-business investment companies would be business enterprises to provide equity capital for small business, and not lending organizations in the traditional concept of banking.

2. Constitutional considerations: There are some very serious constitutional objections which may be made to any legislation which provids for Federal incorporation of business enterprises. As has been pointed out above, the power and authority concerning the creation of business corporations has been historically and traditionally exercised by the States and governed by their laws. In this posture it would appear that this is one of the powers reserved to the States under the Constitution, and it seems highly doubtful that the Constitution delegates to the Federal Government power in the area of incorporation of business enterprise.

3. There is no necessity for Federal incorporation: The achievement of the major purposes of this bill is not dependent upon small-business investment companies being incorporated as Federal rather than State entities. Section 301 is not germane to the purposes of S. 3651. There is nothing that is contemplated by the proposed legislation which cannot be accomplished through such companies being incorporated under State laws. It may be that section 301 of S. 3651 in providing that they would be chartered by the Small Business Administration "in the absence of appropriate State law," is derived from an assumption that State incorporation laws might not permit the incorporation of such investment companies.

An examination of this matter leads me to the conclusion that such an assumption is without foundation and there is no necessity for this provision in section 301, therefore, no need for such other provisions of the bill that augment section 301. If it is considered to be desirable for the Small Business Administration to have some supervision over the internal character and form which such a corporation should have in order to qualify for doing business under the act, this can be readily achieved by other means. Reasonable standards can be drawn with which such investment companies would be required to comply. Certification by the Administration when it is satisfied that an investment company incorporated under State law is properly qualified could establish that fact. Such certification would then make the investment company eligible for the loans and special tax benefits which this legislation would confer. It would not, however, be necessary in any sense for the Small Business Administration to have the power to create the corporation. This could and should be left to the law of the State in which such an enterprise would become incorporated.

In conclusion, let me reiterate that Federal incorporation of business enterprise would set a dangerous precedent. It would infringe upon a field of law well governed and administered by the States under powers reserved to them. Constitutional issues make incorporation of business by the Federal Government unwise. Moreover, there is no need to provide for the Federal incorporation of small-business investment companies as suggested in this proposed legislation. And, insofar as I can find, no one has come forward to show such a need. Any such showing, and I do not think one can be made, ought to be one of the most compelling nature before Federal incorporation should be favorably considered.

May I respectfully suggest, therefore, that S. 3651 be amended to give recognition to the objections made here.

Respectfully submitted for the American Bar Association.

CHARLES W. STEADMAN.

JULY 7, 1958.

The letter continues:

There seems to be a misunderstanding with respect to there being a need for Federal enabling legislation to provide for Federal rather than State incorporation of the small-business investment companies contemplated by S. 3651. There is no need for such Federal enabling legislation. The American Bar Association, through the research facilities of the American Bar Foundation has examined this point very carefully. As a result of this study this conclusion was reached:

While the statutes are of varying degrees of general adequacy, there is none as brief and as rudimentary in its provisions as section 301 of the proposed act. There is none of the 52 acts that is not adequate for the creation of a business corporation including the small-business investment companies.

There is, therefore, no reasonable excuse for encroaching upon a power which the Constitution has reserved to the States, namely the incorporation and chartering of business enterprises.

Section 301 has a termination date of June 30, 1961, for such Federal chartering. All small-business investment companies organized after this date would be chartered under State law.

House Report No. 2060 and Senate Report No. 1652 indicate that this 3-year period during which small-business investment companies could be organized under Federal charter, was included in the bill upon the supposition that within the 3 years so provided, States could amend their corporation laws to provide for the incorporating of the small-business investment companies for operation under the program encompassed by S. 3651. These two reports in this respect support the Federal incorporation provision upon some supposed omission in the corporation laws of the States, and thus on a basis of need. This is predicated upon a condition contrary to the fact.

In the light of this circumstance, I commend to you on behalf of the American Bar Association, the elimination of the Federal incorporation and chartering provisions of S. 3651.

In order to accomplish this objective it is respectfully urged that you offer the amendments to S. 3651 which are set forth in my memorandum of July 9, 1958, which is also attached to this letter.

It may be suggested that legislation for Federal incorporation which is limited to a 3-year period would not be harmful. If I may venture this observation, temporary legislation all too often becomes permanent. That such is likely to be the case in this instance is well illustrated by the remarks of the Honorable WRIGHT PATMAN with respect to S. 3651, which appear at page 12639 of the CONGRESSIONAL RECORD for July 15, 1958. Mr. PATMAN proposes to eliminate from S. 3651, the temporary 3-year provision for Federal incorporation of small-business investment companies and to make such Federal chartering a permanent feature of this legislation.

It would not burden the States to handle the incorporation of these small-business investment companies. An assertion to the contrary undoubtedly arises from a lack of understanding of the procedures and facilities available in the States for the incorporation of business enterprises, which facilities have existed since the early years of this Republic. The secretary of state in each one of the several States has an experienced staff for handling the incorporation of all kinds of business enterprises. These facilities, which need not be duplicated in the Federal Government, are available at all times, and it is highly inconceivable that any unreasonable burden would be placed upon them by the chartering of such additional business enterprises as may be engendered by the passage of this legislation.

Your thoughtful consideration and active cooperation in support of the position of the American Bar Association will be most highly esteemed and is solicited.

Yours very sincerely,

CHARLES W. STEADMAN.

It seems to me that that is a well-reasoned and entirely justified statement as to why this Federal provision is not needed. Certainly, I have no great desire, speaking for myself, to require any of my constituents out in Indiana who may want to create one of these companies to come down here to Washington to get their charter. I would just as soon have that business taken care of in Indiana. Let them hire their lawyers out there; let the incorporation be made out there. After they get their incorporation, and before they get their Federal money, they have to come down here and establish their right to the money. They have to establish that they are qualified, that they are competent, that they are the sort of people who qualify under the rules and regulations that would be created. But for the life of me I cannot see why we need to set up an additional function here in the Government in Washington, additional bureaucracy, additional expense, when the States themselves already have the statutes, the personnel, the skill, the facilities and everything else to do whatever needs to be done.

Mr. SPENCE. Mr. Chairman, I yield such time as he may desire to the gentleman from Georgia [Mr. BROWN].

(Mr. BROWN of Georgia asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Georgia. Mr. Chairman, the House today is paving the way for a new type of private financial institution, to fill a gap in our existing financial system. Small businesses urgently need equity-type capital and long-term loans, and this bill will foster a new system of investment companies, privately owned, to help meet this need.

This bill has been developed in a spirit of harmony and compromise, with help from the Federal Reserve Board, the Small Business Administration, other Government agencies, and many segments of private industry. For example, the American Bankers Association recognized the need for stimulating the flow of equity capital to small business, and appointed a special committee to determine how this could be done, consistent with the principles of free enterprise and sound financing practice. This committee prepared a report recommending establishment of a system along substantially the same lines as those embodied in the bill we are considering today. I am happy to say that one of my constituents, Mr. Monroe Kimbrel, executive vice president of the First National Bank of Thomson, Ga., and chairman of the committee on Federal legislation of the American Bankers Association, served on this committee. This is a splendid example of public-spirited citizens working to improve our economy, and this committee and the other groups of private citizens who have worked hard to perfect this proposal deserve our warmest thanks.

There is a basic difference between this bill and the regular business loan program of the Small Business Administration. That program involves short-term and intermediate-term loans. For the most part, needs for this type of credit are met by commercial banks. To avoid Government competition with these private financial institutions, SBA's regular small-business loans are limited to cases where the applicant cannot get a loan on reasonable terms from sources other than SBA. Most of SBA's loans are made in participation with commercial banks; but in cases where no participation is available, SBA may make a direct loan to a small-business concern.

Under this bill, on the other hand, there will be no direct Government lending to small-business concerns. The bill will promote the establishment of private investment companies for that purpose. The Government's role will be limited to chartering these institutions, supervising them, and supplying part of the funds they will need. SBA will furnish up to $150,000 to help a small-business investment company in getting started; this will be done by SBA taking the company's subordinated debentures. In addition, SBA may make a loan to the company of up to one-half of the company's capital and surplus. This arrangement provides some Government financial help for these companies, but avoids Government ownership of any stock in them.

These private investment companies, in turn, will furnish capital to small businesses by purchasing their debenture bonds, convertible at the option of the investment company into stock of the borrowing concerns. At the same time, the borrowing concern will be required to buy stock in the investment company in an amount ranging from 2 percent to 5 percent of the capital so provided. Thus, a steady flow of private capital into the investment company is assured, so that in time all Government funds may be repaid and the company will be financed completely by private sources.

As an alternative to supplying capital through buying convertible debentures, the new small-business investment companies may also make long-term loans to small-business concerns. This alternative is necessary, particularly for unincorporated businesses. Maturities of these loans could range up to 20 years. The loans must be of such sound value, or so secured, as reasonably to assure repayment; this same standard applies to SBA business loans today.

I am sure all Members will agree that we must maintain an economic climate in this country in which small, independent businesses may grow and flourish. We are hampered today in our efforts to reach this goal because no adequaet source of long-term loans and equity financing exists for small business. This bill represents a reasoned, practical approach toward meeting this need. I urge all Members to support it.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. McDONOUGH].

(Mr. McDONOUGH asked and was given permission to revise and extend his remarks.)

Mr. McDONOUGH. Mr. Chairman and members of the committee, I doubt if there is anyone who does not feel friendly to small business and who does not want to do anything that is possible to stimulate its activity and the economy of this Nation. I think every precaution that can be placed in legislation that controls the financing of small business should be provided in the legislation. I cannot disagree with my colleague, the gentleman from Indiana, who believes that the State ought to be the source from which these agencies should be chartered, because if there is control at the local level, the State officials know these communities better than the Federal Government and there is much better cooperation and coordination. Where Federal funds are involved, there should be that precaution. I do not know how many States do not have that authority. I doubt that there are many who do not have that authority. However, the report indicates there are some 1,800 communities in the United States that do have industrial development corporations where they obtain funds from local financial sources to expand and promote small business. This bill supplements that by providing Federal funds for that purpose. There are several safeguards. The loans are protected. In the bill the loans must be such that cannot be obtained from another source. The local financial houses have to be thoroughly canvassed and the institution that is financed must also be a going concern so that we are not attempting to use any Federal funds or any help for small business that is a fly-by-night affair. The report on the bill contains a survey that was made by the Federal Reserve Board which I think is very significant and revealing as to the need for this type of finnancing, in addition to direct loans, we provide in the Small Business Administration.

Another point about the bill is that it does not add a new bureau to the already growing bureaus and Government corporations. There is only one Deputy Administrator to be added and that is not too much for the job that he will have to perform. I do not think that there is much opposition to the bill. I think it will help the industrial economy and promote and expand small business. I urge approval of the bill.

Let me read from the report on the bill the following pertinent parts of the bill which describe the functions:

NEED FOR LEGISLATION

From time to time during the last 25 years the Congress has considered proposals to augment existing institutions for supplying capital and credit to small businesses. While many bills have been enacted in this general area, none of the programs established to date have met the needs of small business for equity capital financing or long-term credit.

Testimony received by the committee from representatives of the American Bankers Association, the Committee for Economic Development, and the United States Chamber of Commerce, as well as the testimony received from the Department of Commerce and the Small Business Administration indicates that these organizations are agreed that there is real need for a program designed to supply long-term and equity-type financing to small businesses. These witnesses were also in agreement that on the whole, short-term and intermediate credit needs of small businesses are being satisfactorily met through existing financial intermediaries, private and Government.

A recent and most authoritative study of this matter was made by the research staff of the Board of Governors of the Federal Reserve Board with the knowledge and encouragement of the four congressional committees having primary interest—the Banking and Currency Committees and the Select Committees on Small Business of both Houses of Congress. House Report No. 1889 (85th Congress 2d sess.) of the Select Committee on Small Business issued on June 17, 1958, also covers the problems of small-business financing.

The Federal Reserve Board's study on the financing problems of small business had several objectives. One of these objectives was to assemble information bearing on the question of the economy's facilities serving these needs.

The Board's study found that the financial needs of small business vary among different categories of small concerns and that such needs are most complex. Information and data compiled clearly indicated that most of the unsatisfied demand of small business is for long-term loans, equity, or equity-type credit. The commercial banking system is not prepared or designed to satisfy needs for equity or long-term credit. Traditionally their operations have been confined to short and, to a limited extent, intermediate-term loans.

As indicated by the Federal Reserve Board's study, the unavailability of long-term loan and equity capital is clearly one of the most important problems of small business today. Such investment capital must necessarily come from the personal savings of the people and most of these savings are going into existing financial intermediaries such as our large insurance companies, savings banks, and others which in turn reinvest these funds. The question then may well be asked why these institutional investors do not undertake investment of this type.

Institutional investors generally are limited by law in the choice of their investments. When these institutions can exert judgment in the matter of making investments it is found they prefer investing their funds in those securities which have active national markets. Information available to the committee indicates that institutional investors have shown little desire to invest in small concerns on a long-term basis and it is unlikely that their investment policies will change in this respect.

The business loan program of the Small Business Administration is limited to providing short-term and intermediate-term credit when such loans are unavailable from private financial institutions. This program does not provide equity financing. The Federal Government, therefore, at this time has no program which would make available long-term loans and equity capital to small business.

Most of the testimony received by the committee, and in particular the study of this problem by the Federal Reserve Board, points to the fact that there is a real need at this time to stimulate the availability of capital funds to small business; and there is a gap in the economy's present financial mechanism which prevents the small businesses of the country from obtaining needed long-term and equity-type financing. Your committee believes that Federal legislation is needed to meet this problem. The bill as reported is designed to establish a sound and effective program to help meet the long-term capital needs of small business. The bill in our judgment provides for a carefully reasoned and needed approach to a heretofore unchartered field.

ESTABLISHMENT OF A SMALL BUSINESS INVESTMENT DIVISION IN THE SMALL BUSINESS ADMINISTRATION

The bill would establish in the Small Business Administration a Small Business Investment Division. This Division would be headed by a Deputy Administrator who would be appointed by the Administrator of the Small Business Administration. All powers which would be conferred by the act upon the administration would be exercised by the Small Business Investment Division; and those powers which would be conferred upon the Administrator would be exercised by him through the Deputy Administrator. The Small Business Investment Division would be a semiautonomous division within the Small Business Administration. The new functions provided for in the bill would be separate and distinct from the other functions of the Small Business Administration.

Appointment and confirmation of deputy administrator

The committee seriously considered including in the bill a provision requiring that the Deputy Administrator appointed to head the new division be appointed by the President and confirmed by the Senate. It believed that such a method of selection would give added stature to the new office and would place the Deputy Administrator in a stronger position to administer the provisions of the act in an independent manner. The committe, however, recognized the organizational problems that would result from such a provision since the administration already has three deputy administrators established by law who are appointed by the administrator. Accordingly, the bill would provide that the new deputy administrator should likewise be appointed by the administrator.

* * * * *

PROVISION OF FUNDS

The bill would provide funds for the program by authorizing an additional $250 million of appropriations to the existing revolving fund of the Small Business Administration which was established by the Small Business Act of 1953. These additional funds, however, could be used only to carry out the purposes of the Small Business Investment Act.

The Small Business Administration obtains its funds through annual appropriations. The committee believes that funds necessary to carry out the purposes of this new program, which would be administered through a division within the Small Business Administration, should also be obtained through annual appropriations.

SMALL BUSINESS INVESTMENT COMPANIES

Organization of small business investment companies

The Small Business Administration (Small Business Investment Division) would be authorized under the bill to charter small-business investment companies. This authority would terminate as of June 30, 1961, but this termination would have no effect upon the continuing activities of any small-business investment companies chartered under this authority.

The bill would require 10 or more persons to sign the articles of incorporation of the proposed small-business investment company which would be filed with the Small Business Administration. Such articles of incorporation, when approved by SBA, would establish the company as a Federal corporation with the usual powers necessary to do business and to carry out the purposes for which they are established. In issuing any permit, the SBA would consider (1) the need

for small-business financing in the area where the proposed company is to operate; (2) the character of the proposed management of the company; (3) the number of such companies already formed in the United States and the volume of their business; and (4) other related factors.

Your committee has provided for a termination date (June 30, 1961) of the authority of SBA to charter small-business investment companies. Thereafter, such companies must be chartered under State law and may be given permission to operate under this program provided they qualify and are approved by the SBA. Within 3 years all States should be in a position to enact the necessary enabling legislation to permit the chartering of small-business investment companies to operate under this program, consequently the chartreing function in SBA will be unnecessary after June 30, 1961.

Capital stock requirements

The bill would require that each small-business investment company have not less than $300,000 of paid-in capital and surplus before commencing business.

In order to encourage the formation of small-business investment companies, the SBA is authorized to provide a maximum of $150,000 to each such company formed, through the purchase of subordinated debentures. These subordinated debentures are in fact debt obligations of the company occupying a junior position to other debt incurred by the company. However, in applying the following three limitations in the act the subordinated debentures would be treated as paid-in capital: (1) minimum capital required for formation of investment company, (2) the general limitation that other loans from SBA may not exceed 50 percent of paid-in capital and surplus of the company, and (3) the limitation that loans to an individual small-business concern may not exceed 20 percent of the capital and surplus of the investment company.

To facilitate further the formation of small-business investment companies the bill would authorize national banks to purchase stock in such companies. It would also authorize State member banks and nonmember insured banks to purchase such stock, where compatible with State law. However, no such bank would be able to hold shares in these companies in amounts aggregating more than 1 percent of the bank's capital and surplus.

Your committee wishes to make it quite clear that the bill would in no way preclude other types of institutions from purchasing stock of these companies. Their ability to do so, however, would depend entirely upon applicable Federal or State laws.

SBA loans to investment companies

The bill would also authorize the SBA to lend money to a small-business investment company on terms and at a rate of interest established by the Administration. The total amount loaned, however, could not exceed 50 percent of the paid-in capital and surplus of such company. The company would be authorized to borrow additional funds from private sources under conditions, limitations and regulations as the SBA may prescribe.

Your committee hopes and expects the major portion of the operating funds of these companies to come from private sources. On the other hand the committee realizes that initially a greater demand will be for funds from the Government until the experience of these companies and their success have been proven.

Equity-type capital for small businesses

Small-business investment companies are authorized to provide equity-type capital to small-business concerns through the purchase of convertible debentures which shall contain such terms and interest rates as the companies fix under SBA regulations. These debentures are to be convertible at the option of the company or a holder in due course, up to and including the date of call, into stock of the small-business concern at the sound book value of such stock as determined at the time the debentures were issued.

The committee believes that the use of convertible debentures, which has been developed to a high dgree in recent years by many large, publicly financed companies, is the most suitable financing instrument for this type of program. This type of debenture is attractive to speculative investors who want an opportunity to share in the future prosperity of a business beyond the fixed claim of ordinary debt. In view of the risk inherent in, and the admittedly experimental nature of the financing which this bill seeks to encourage, consideration must be given to encouraging such speculative investors.

Before an investment company purchases any such convertible debentures, it may require the small-business concern to refinance its outstanding indebtedness so that the investment company is the only holder of indebtedness of such concern. Furthermore, to protect the investment company, such small-busiuess concern my be required to agree not to incur further indebtedness without approval of the investment company.

Whenever an investment company provides capital to a small-business concern through the purchase of convertible debentures, such concern is required to purchase stock in the investment company in an amount equaling from 2 to 5 percent of the amount of the capital provided, as established by SBA regulation. The purpose of this stock-purchase requirement is to build up the investment of private funds and, in due course, to make Federal participation unnecessary.

Loans to small-business concerns

Small-business investment companies are authorized to make loans of such sound value, or so secured, as reasonably to assure repayment to small-business concerns, both incorporated and unincorporated. These loans may be made directly or in participation with other lending institutions. The maximum interest rate on such loans is to be set by the SBA. The maximum maturity of such loans is 20 years, but an investment company may extend the maturity of a loan for an additional 10 years if such extension will aid in the orderly liquidation of a loan. If, for example, a company grants a 20-year amortized loan of $20,000, payable in annual $1,000 payments, and after 15 payments have been made the borrower finds it impossible to continue payments at that rate, the company would be free to reduce the remaining payments and extend the maturity of the loan, up to 10 additional years so as to retire the balance of the debt at the reduced rate of payment. The company presumably would delay granting the extension until the loan matures, but the existence of this extension authority would permit the accommodation of the borrower, in appropriate cases, during the life of the loan.

Without approval of the SBA, the total amount which a small business investment company may lend and invest in a single small-business concern may not exceed 20 percent of the combined capital and surplus of such investment company (subordinated debentures purchases by the SBA under this bill are treated as part of capital and surplus for purposes of this limitation).

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. McDONOUGH. I yield.

Mr. BOW. Could the gentleman tell us the number of employees that would be required under the investment company charter? How many new people would be added to set up that branch of the Small Business Administration?

Mr. McDONOUGH. Does the gentleman mean Federal employees?

Mr. BOW. Yes.

Mr. McDONOUGH. I do not anticipate any Federal employees, because if we adopt the amendment of the gentleman from Indiana it would be the local agencies that would have the job of issuing these charters.

Mr. BOW. But in order to charter those companies, to set up the new division and to do the chartering.

Mr. McDONOUGH. That I could not answer, as far as the number of employees is concerned. Of course, if we amend the bill to eliminate the Federal Charter Investment Corporation, then we would not have that problem at all.

Mr. BOW. If you set it up, you will have to have some new Government employees, and perhaps to police the corporations that have been set up. I am wondering if the gentleman from Indiana [Mr. HALLECK] is not correct, that it should go back to the States where this provision has already been made.

Mr. McDONOUGH. I agree. Otherwise we would have to add Federal employees to provide for issuing these charters here in Washington. I agree that the State agency is the proper level.

I yield.

The CHAIRMAN. The time of the gentleman from California [Mr. McDONOUGH] has expired.

(Mr. LANE asked and was granted permission to extend his remarks at this point.)

Mr. LANE. Mr. Chairman, the phenomenal growth of big business is a fact known to almost everyone. The success-prestige of these large companies makes it easy for them to obtain long-term credit and equity capital. Big business secures part of the money for expansion or for replacement of equipment out of retained earnings. It also obtains equity capital by selling stock to those who are willing to become shareholders in its prospects. In addition, it borrows capital on a long-term basis by selling bonds or by giving notes to individuals or other institutions.

Small business is unable to raise the money it requires in this manner.

In the development of our economy, no provision has been made to supply this essential need of small business.

There is no institutional source to which small business may turn to acquire the necessary capital.

As a result, there are many obstacles in the way which constrict the operations of small business, and curtail the functioning of regular business competition.

This serious lack, and various possible remedies for it, have been earnestly studied by the Committee on Banking and Currency of the Senate, and by the committee of the same name in the House.

They were impressed by the urgent necessity for broadening present banking facilities in order to make capital loans and equity capital available to small enterprises. In this conviction,

they were supported by similar problems in other capitalistic nations, and the steps that were taken to open up new channels of financing for them.

This is not a case of the Government itself going into the banking business. It is an assist from the Government to encourage the development of new institutions that will provide the lifeblood of capital for small businesses.

S. 3651 will stimulate the creation of small-business investment companies, chartered by the Small Business Administration, and eligible for long-term loans from the SBA. State and local development credit corporations will also qualify for such assistance.

With no direct contact between the Government and small enterprises, and with a minimum of Federal activity, this new program will realize the following objectives:

First. To supplement, rather than supplant, existing private facilities.

Second. To operate under a simple and flexible organizational structure.

Third. To operate and be accounted for in complete separation from other Federal small-business programs.

Fourth. To utilize to the maximum possible extent the facilities of State and local development credit corporations, and

Fifth. To concentrate upon meeting the equity and long-term credit needs of small-business concerns.

The consensus of opinion among witnesses who appeared before the committee is summed up in the words of Chairman William McChesney Martin of the Federal Reserve Board who advised: "That there is room for a Government program to foster the flow of private investment funds to small business."

It is obvious that existing financial institutions in the United States, are not designed and are not equipped to meet the long-term credit and equity needs of smaller enterprises. Commercial banks are not able to furnish such financing; their function lies primarily in short and intermediate-term lending; they do not supply venture capital or long-term credit. The present financial institutions which do provide a source of venture capital are not able to assist smaller firms. The cost involved in the public sale of securities is prohibitive to small-business issuers.

These needs can be met by the establishment of new private financial institutions. S. 3651 will fill that need.

Most of us believe that these new private institutions can be profitable. This bill is designed to provide Government impetus and assistance. When these purposes have been served, Federal participation can be eventually retired.

Small businesses, because there are so many of them are the foundation of economic enterprise.

Adequate financing on reasonable terms must be provided to insure their growth and development.

S. 3651 is a carefully considered method to fill this institutional gap.

Upon all the evidence available, it is well worth the venture.

Mr. SPENCE. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. MULTER].

(Mr. MULTER asked and was granted permission to revise and extend his remarks.)

Mr. MULTER. Mr. Chairman, this bill that comes before us from the House Committee on Banking and Currency is intended to fill a real need. All who have considered the matter, whether bankers, economists, lawyers, or legislators, agree that there is no place in our economy today to which small business can turn for help in order to get equity or risk capital. There is no place where small business can go to get a 20-year loan. The bankers concede that existing law prohibits that in most instances. In any event, they will not advance such risk or equity capital.

At the outset I would like to make clear that this bill is not intended to take the place of any other program that exists today, either privately or under Government sponsorship. This is a supplementary program to fill a need that cannot otherwise be filled. The bill of course treads upon new ground. It will undoubtedly be required to follow uncharted courses. It is a new program. We admit and recognize that it is experimental in nature. All who have studied the problem concede that we must do something for small business in this connection, without which it cannot possibly get the help that it needs.

Objection has been raised to one particular provision of the bill. We are told that it comes from the American Bar Association. The argument that was made in part against the provision of the bill for the national chartering of small business investment companies that are called for in this bill is that it is going to take business away from the lawyers back home and bring it to the lawyers in Washington. Any lawyer who is worthy of the right to practice law in his home city or town knows that he does not have to come to Washington to form a Washington corporation. If he has had the slightest corporate experience, he knows that he did not have to go to Delaware to form a Delaware corporation. Lawyers are forming Delaware corporations every day without going there and without hiring counsel in Delaware. The same is true of the District of Columbia. If today a lawyer wants to form a new corporation in the District of Columbia, all he need do is prepare his certificate of incorporation and send it not to a local lawyer but to the Superintendent of Corporations of the District of Columbia. If his papers are in order they will be filed, the superintendent will take his fee, and his company is incorporated. It is no different in the District of Columbia than it is in any State of the Union.

So this figment of someone's imagination, that some lawyer back home will lose some business if we have national charters under this act is ridiculous.

Another point that is raised is that this provision for the national charter of corporations will result in more corporations at the Federal level than at the State level. Let me point out to you that this is a banking function that you are setting up under this bill. Call it investment if you will, call it what you will, it is a banking function. True, the banks up to the present time have not entered into this field. In many instances that is because the home States prevent their entering the field; in other instances on the national level the Federal statutes prevent their entry into this field.

We have had a dual banking system recognized in this country from time immemorial: We have commercial banks on the State level, and we have national commercial banks on the Federal level. We have credit unions—the very smallest financial institutions of our country—on the State level and on the Federal level. They are organized at their choice under State law or under Federal law. The same thing is true of savings and loan associations. They may be organized either under State laws or under Federal laws. We have the same situation as to commercial banks. They organize under either State laws or the National Banking Act.

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. MULTER. I yield to the gentleman from Connecticut.

Mr. SEELY-BROWN. I wonder if the gentleman will address himself to the other argument presented by the gentleman from Indiana in which he read the letter from the American Bar Association. Do you know—and I am asking for information—do you know of any State where existing State law does not permit the charter of small-business investment companies as envisioned by the passage of this act?

Mr. MULTER. It is my belief that there are a number of such States. I cannot name the States, but it is my opinion that there are very few States that presently permit the organization of small investment companies such as envisioned by this bill. This is a new program. Few, if any, State laws ever contemplated this type of business. It is my considered opinion that in the State of New York you could not heretofore have organized one of these companies which would have complied with its banking statutes; I know that in New York, you could not use the word "investment" as part of the name of the company without the permission of the State banking department.

But let me as a further answer to that question call your attention to page 981 of the hearings before our Committee on Banking and Currency. There you find set forth the proposed administration bill on this very problem, and in Section 501 of that bill we find this provision:

SBA—

The Small Business Administration—can make loans to small business investment associations, chartered under State law or (in the absence of State authority) by SBA.

So the administration in preparing this bill recognized the fact that there must be some States that would not permit a corporation such as this to be organized under State law.

Mr. SEELY-BROWN. The gentleman along with me attended all the hearings and heard all the testimony. Was there

any testimony whatever indicating the position of the American Bar Association on this particular item?

Mr. MULTER. There was not.

Mr. HALLECK. Mr. Chairman, will the gentleman yield at that point?

Mr. MULTER. Let me first yield to the gentleman from Georgia, Mr. BROWN, please.

Mr. BROWN of Georgia. Is it not true that the American Bankers Association has approved this bill in principle?

Mr. MULTER. Not only in principle, sir, but as to this specific provision for national charters. Now, we did not follow their exact recommendation because they had a slightly different provision as to the three-year period, but they approved this very idea of national charters.

Mr. BROWN of Georgia. I would rather have the approval of this association than the approval of some lawyers.

Mr. MULTER. Let us put it this way, that the American Bar Association and the banks which are members of it have some mighty good lawyers working for them. Had any of those lawyers discovered anything wrong with this provision we would have heard about it.

Let me answer further, and I think it will answer the question the gentleman from Indiana has in mind, with reference to the American Bar Association. Where have they been all this time? This matter has been under study for a long time.

In the other body, when they were considering this bill, a gentleman by the name of Mr. Steadman, the same gentleman who wrote to the distinguished gentleman from Indiana [Mr. HALLECK], appeared before the Senate committee and said:

> I want to make it perfectly clear that I am appearing here this morning as a private individual, principally for the reason that no section of the American Bar Association is entitled to take a specific stand with respect to any legislation until such has been approved by the board of governors.

After giving his testimony in which he objected to this provision, his attention was called to the fact he had come in at the last minute before the other body to make this objection. As a matter of fact one Member of the other body said to him: "I must say it comes with rather bad grace to the bar association, although this is not the bar association but merely an individual, to rush in here on the very last morning of the hearings to object to a provision that has been under serious consideration for practically a year."

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SPENCE. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. MULTER. Mr. Chairman, in the other body the chairman of the Committee on Banking and Currency concluded with this witness, Mr. Steadman, by saying:

> We are going into executive session on this bill next week. Get to us your specific objection or proposed amendments so that we can consider them.

Nothing further was heard from the gentleman.

We did not start hearings on this bill before the House Committee on Banking and Currency until April of this year. The public hearings were concluded in May of this year. I say to the gentleman who raises this question that no member of the bar association, and no one, speaking for the American Bar Association, to my knowledge, communicated to our committee a single such objection. There was no request to be heard orally and no request to incorporate in our record anything on this subject.

I say that the gentleman from Indiana is wrong when he says that this bill requires national charters. It does not. It says you can have a State corporation which will qualify under this act if the State law permits, but if the State law does not permit it you can get a national charter. In either event if it qualifies, it can get the benefits of this statute and get the loans that are available to such corporations and, in turn, be enabled to make long-term loans and investments in small businesses.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. MULTER. I yield to the gentleman from Indiana.

Mr. HALLECK. First of all, I would like to say that it has been represented to me in respect to the protest of the American Bar Association and their representative that there were no hearings held on this bill. I made inquiry about that; and if there were any hearings on this legislation, apparently they were in connection with some broad overall matter going on before the gentleman's committee. I do not believe he can be charged with any dereliction in that regard.

Mr. MULTER. Let me stop the gentleman there. This bill was considered not only by the Banking and Currency Committee of both Houses, and ample public notice was given to all concerned and to all interested, but there were special hearings on this very problem conducted by the House Small Business Committee. They, too, were amply and fully publicized.

Mr. HALLECK. When was this bill introduced?

Mr. MULTER. The Senate bill?

Mr. HALLECK. The House bill.

Mr. MULTER. We are considering the Senate bill; but the House Committee on Banking and Currency considered the Talle bill on this very subject, it considered the Multer bill on this subject and the Patman bill on this subject, and I think 4 of 5 other bills, all dealing with this precise subject.

Hearings were held on all of those bills, and after we concluded our hearings the other body then having also had similar bills before it brought forth this bill as a composite of its best thinking on these bills. We considered that Senate bill and brought it here with our amendments.

Mr. HALLECK. Of course, whether or not they protested at that time does not really have any bearing upon the merits of the problem before us. That is something that we have to decide. But, again I insist there was no special legislation that would have alerted anyone, by reasonable care, that this proposition might come up.

Secondly I would like to say this.

Mr. MULTER. First let me note for the RECORD that I most vigorously disagree with the last statement of the gentleman.

Mr. HALLECK. The gentleman spoke of Mr. Steadman's testimony before a committee in the other body.

Mr. MULTER. Yes.

Mr. HALLECK. What was the date of that testimony?

Mr. MULTER. That was on May 2, 1958.

Mr. HALLECK. Now, I would like to say to the gentleman that I have in my hand a memorandum with these words:

> With respect to this proposed legislation the American Bar Association on June 24, 1958, through its board of governors, adopted the following resolution, a certified copy of which is attached to this memorandum:
>
> "*Resolved,* That the inclusion in any statute adopted by the Congress of the United States of any provision requiring or permitting the Federal incorporation of business enterprises should be opposed."

So, it is an official action of the American Bar Association, of which I am proud to be a member, may I say, and for which association I have a high regard.

Mr. MULTER. I have a high regard for the association and its membership and its board of governors, but again I say to you that that is action by its board of governors and not by the membership at large, and it is unfair for them to come in with that kind of a resolution after all of the hearings are closed. They are as wrong as they possibly can be. I think in this instance we are better off to take the advice and suggestion of the lawyers in the banking field, acting for the American Bankers Association and the banks, and when they say on this point that this is good legislation, I say that we can take their word for it and go along with them on this rather than with the board of governors of the American Bar Association.

Mr. KILBURN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Chairman, I would just like to again point out that no one has come up with the name of a State that lacks sufficient statutory authority to grant these charters. As against that we have the definite statement of the American Bar Association as the result of a study made by the American Bar Foundation, that after a careful examination of all the State statutes—contrary to the wrong assumption contained in the report of the committee—every State has proper statutory authority to grant these charters.

Now, we hear a lot of talk around here about States rights. Everybody seems to be for it. Well, if we are for it, if we want to avoid further centralization here in Washington, if we want to continue State authority and prerogatives, then I say the amendment I propose to

offer here should be adopted, because these charters can be granted back in the States as they have been ever since the founding of the Republic.

Mr. KILBURN. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio [Mr. BETTS].

Mr. BETTS. Mr. Chairman, I am supporting this bill because I believe that somewhere it might be of some assistance to small business in a limited way. But I think it represents the wrong kind of thinking about small business which has been taking place in Congress for many years. It proceeds on the basis that the average small-business man wants money or credit. That is not true. He wants an atmosphere in which he can do business without having to borrow money or go in debt. He doesn't want more Government in his affairs—he wants less.

About 100 members of the National Federation of Independent Business sent ballots to my office revealing their views on pending legislation. I think they represent the general thinking of small-business men in my district. Recently I wrote each one and asked him to tell me the one thing he thought would help small business. The answers were revealing and point up the fact that this bill is not the answer to their prayers. Not a single answer mentioned easier terms for borrowing as of first importance, although three letters referred to it in passing.

Here is what most concerns and disturbs the small-business man in the Eighth Ohio District, "burdensome taxation," "unnecessary Government spending," "interference from labor unions," "complicated redtape," "too much foreign aid," "discount houses"—but most of all taxation and extravagance. In other words, it all adds up to too much Government. They feel that the bigger Government gets, the farther away it moves from small business.

To them the pattern of Government spending is difficult to explain—the never-ending construction of luxury office buildings for Federal officials, the always increasing bureaucracy of the National Government with its increase of necessary and time-consuming bookkeeping. All of it is hard to reconcile with the struggle of the small-business man who regards the Federal Government as extravagant, which extravagance brings him no relief from oppressive taxation.

Here are some excerpts from typical letters:

> Some sort of tax relief for the small business. It is hard, if not impossible, to pay off a capital investment out of current income and still build a business, since to grow means increasing inventories, etc. Try it sometime.

> Any legislation that will give tax relief is basic and vital if the small-business man as he is known today is to survive. Now I realize that in order to reduce the tax load the Federal Government will need to reduce expenses. Most businessmen with whom I am acquainted are opposed to the endless subsidies, giveaway foreign programs, and the seemingly wasteful operations that Government takes part in.

He is fearful of expansion of minimum-wage laws, the monopoly of labor unions geared to a program of increasing wages with consequent rise in prices of products he has to buy. The fact that none of my informants expressed any fear over the recession indicates they are more fearful of the economic squeeze from inflation—increasing cost of living—than of a temporary lag in business. Here is an excerpt from another letter:

> Another thing Congress ought to do and that is curb these monopolistic labor unions. Industrywide bargaining ought to be banned; unions should be required to make financial reports to the Government and their members annually; control over some labor practices should be returned to the States; strikes should be subject to secret ballot vote; elections should be required periodically; other unfair practices as developed by the McClellan committee should be curbed. You can't have yearly rounds of wage increases with its consequent price increases without sooner or later pricing goods out of the market. In my opinion the present recession is a "buyer's strike" labor induced.

Some small merchants are fearful of competition from large industries. In this area they feel the factors which hurt them are unfair price cutting and company-operated units. As a small-town jeweler put it, "In our line of business, the so-called discount houses and the manufacturers have just about run us out of business." An owner of a market in a typical midwestern community wrote me:

> I firmly believe that, unless some sort of protection is established to protect and encourage small business, it soon will be devoured and the small-business man along with his right to be independent will be gone.

It is not my purpose to comment on the merits of these statements. Every small-business man will be heartened to learn of the action of the House yesterday in passing the bill which affords some tax relief.

I merely recite these views from letters coming to my desk to show that in passing the tax-relief bill, as well as this bill, we have still left untouched some areas where small business feels the need of real and immediate relief.

So, Mr. Chairman, as I have stated, I shall support this bill only because I hope it will do some good. Those who return to this Chamber next January can take a bolder approach to the problems of small business. Something perhaps along the lines outlined in the letters I have received from genuine small-business men.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. WIDNALL].

Mr. WIDNALL. Mr. Chairman, I believe this legislation can serve a very useful purpose. I also agree substantially with the remarks of the gentleman from Ohio [Mr. BETTS], who preceded me, as to the essential needs of small business. In supporting this legislation, and to emphasize the need, I will read some excerpts from the committee report:

> A recent and most authoritative study—
>
> Of the type of equity financing for small business and supplying long-term credit—
>
> was made by the research staff of the Board of Governors of the Federal Reserve Board with the knowledge and encouragment of the four congressional committees having primary interest—the Banking and Currency Committees and the Select Committees on Small Business of both Houses of Congress.
>
> The Federal Reserve Board's study on the financing problems of small business had several objectives. One of these objectives was to assemble information bearing on the question of the economy's facilities serving these needs.
>
> The Board's study found that the financial needs of small business vary among different categories of small concerns and that such needs are most complex. The commercial banking system is not prepared or designed to satisfy needs for equity or long-term credit. Traditionally their operations have been confined to short and, to a limited extent, intermediate-term loans.

We have an existing facility, the Small Business Administration, that has been operating well, that has been administered well, and that has been commended by the Congress. Under the terms of this proposal there would be established within the Small Business Administration a Small Business Investment Division run by a deputy appointed by the Administrator of the Small Business Administration. Two hundred and fifty million dollars is authorized to go into an existing revolving fund of the Small Business Administration. That will be earmarked for this particular purpose, and cannot be used for other purposes of the Small Business Administration.

I definitely believe the need exists for this type of financing and hope the Congress will approve this legislation.

Mr. SPENCE. Mr. Chairman, I yield such time as he may desire to the gentleman from Maine [Mr. COFFIN].

(Mr. COFFIN asked and was given permission to revise and extend his remarks.)

Mr. COFFIN. Mr. Chairman, I believe that we have reached a major landmark in this Congress in recognizing small business as a vital factor in the strength and diversity of our national economy. First of all we have made the Small Business Administration a permanent agency and we have declared its continuing independence of any other department or branch of the executive department. If we had done no more, this would have been a substantial gain.

Small business and methods by which the Federal Government can best insure its survival, have been one of my major concerns since I came to Congress. I have followed each phase of the development of legislation on this matter through House and Senate committees and branches of Congress. I have testified more frequently on this subject than on any other.

I was understandably proud when recent legislation to make the Small Business Administration a permanent agency carried my proposal to direct SBA to make continuing studies of the problems of small business. From my own experience in my own State where well over 90 percent of the businesses can be termed "small" within the definition of SBA, this amendment is very necessary to programing the kind of help that is really needed.

Today we are again breaking new ground. The Small Business Investment

Act, to be administered by the SBA, provides new, badly needed sources of capital and credit. It is a new experiment but one that I believe will work and I have recommended its passage in testimony before House and Senate committees.

In testifying before the Senate Small Business Subcommittee of the Banking and Currency Committee, which approved this bill before it came to the House, I advocated two specific and very important amendments. Both of them are contained in this bill.

In my testimony, I expressed serious doubt that there would be many substantial pools of investment capital available, at least in Maine, to form companies with at least $250,000 of private investment. I urged that this amount be reduced to $150,000. The bill before us in effect meets my objection. The total paid-in capital and surplus must total $300,000, but half of this amount can be loaned by SBA. This 50 percent which would come from the purchase by the Small Business Administration of the company's debentures would be subordinate to any of the company's other obligations and would be deemed part of its capital and surplus.

A second amendment which I proposed to this bill, as well as to the Small Business Act, would provide SBA loans to nonprofit development companies. This amendment is contained in this bill under title VI. This provision will, I am confident, encourage the town-meeting approach to the problem of attracting new industries. Local money can be made to go much further in helping to bring new prosperity to the community. I regret that a similar provision was not included in the Small Business Act. I am gratified, however, that this bill, which will be administered by SBA, has combined equity capital with lending functions, thus providing greater flexibility in SBA's lending operations—an objective which I have supported very vigorously.

It seems to me that the House Banking and Currency Committee has acted most wisely in insisting that the administration of this new experiment in the field of small-business financing be placed with SBA. It has been my feeling that an additional agency, set up to administer equity capital, would necessarily overlap many of the functions of SBA and perhaps create additional avoidable costs.

Mr. Chairman, I want to emphasize my earnest belief that this Congress has done more for small business than we can perhaps appreciate. Approval of the pending measure will complete this very excellent record.

Mr. SPENCE. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. PATMAN].

HALLECK AMENDMENT

Mr. PATMAN. Mr. Chairman, before discussing the bill more fully, I want to comment on the amendment that is proposed by the distinguished gentleman from Indiana [Mr. HALLECK]. I find myself in disagreement with him. I know he is a good, fine, conscientious, able Member of this body, and I know he has, in the past, been very helpful to legislation for small business. I know he is sincere in his advocacy of this particular amendment, but I think it would be a very damaging amendment if it were adopted.

The small-business man, whether he gets his loan from the Small Business Administration or a bank, or regardless of whom he gets his loan from, by the time he gets through paying the deductions from it, does not have near the amount of the principal left.

The deducts, for different reasons, get a large part of his loan.

So, if we are going to have another deduction for the lawyers, earmarked for the lawyers, the small-business man will have even less. I know the lawyers will do this work of drawing up the articles of incorporation anyway, and the lawyers will be satisfied to take their chances. Not one lawyer in the district I have the honor to represent has asked me to support this type of legislation on any bill that has been before Congress, since I have been a Member starting 30 years ago. Lawyers are not interested in having a tollgate. Lawyers are not interested in making the people go through a tollgate and make a contribution to them for a specific purpose. Lawyers are competitive. They are a good, honorable, honest, outstanding group of Americans. I am privileged to belong to that group. I have been in the practice of law. I know about the initial starvation period. It is not fiction. It is real. I know something about the practice of law. But I have never known a lawyer to insist that a tollgate be set up for him or for the legal profession. Lawyers will take their chances.

If I were writing the amendment to carry out what the purpose of the amendment offered by the gentleman from Indiana, I would write it something like this: To provide that no small-business investment company shall be chartered unless the articles of incorporation for such company are prepared and presented to the administration by an attorney licensed to practice in the State where the principal office of the small-business investment company is located. That is exactly what it means—to require the use of lawyers in a certain place. I am a realist, and I know that the lawyers will do this work anyway. Only lawyers can prepare these papers. But why set up a State tollgate and say "You have to pay the lawyers." Of course, these State legal organizations sometimes even fix the fees that you must pay; and that could be a great handicap to the administration of this act.

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. SEELY-BROWN. Is it not true in fact that regardless of whether you have a national charter or a State charter, the local lawyer is going to do 99 percent of the work?

Mr. PATMAN. Certainly. The local lawyer is not asking for this amendment.

But there is another reason for this amendment: Over the years we have had a difficult time impressing the American people and the Congress that small business does not have a place to get adequate financing. But, now we have the proof—we have the proof from the American Bankers' Association, and we have the proof from the Investment Bankers' Association of America and we have proof from everybody to the effect that the commercial banks are not set up to do equity financing or long-term financing for small business. We have it down now in black and white and presented overwhelming proof, for the first time that it has ever been presented to Congress.

Heretofore it has always been argued—"let the banks do this—the banks can finance small business, so there is no need for Federal asistance in setting up a program that will compete with the banks."

But, now we have the proof. It is admitted that there is no place for the American small-business man to go to obtain adequate financing in this American economy of ours. In this private enterprise system, the best system on earth, there is a vacuum.

So, the question is: Are we going to fill that vacuum? Are we going to let the small-business man have an opportunity—mind you, not an unfair opportunity, not something that is discriminatory in his favor, but an equality of opportunity to get capital, just as big business can raise capital. That is all we want for small business. We have a bill here that will give the small-business man an equality of opportunity to obtain capital.

The bill as now written permits state chartered associations—there is nothing in here to prohibit state chartered associations. They are provided for in this bill, and federal charters are also provided for in this bill.

We will have a little competition between the States and the SBA. Possibly it will be good for small business. If they cannot get a State charter, let them get a Federal charter. We have that in banking. We have State charters and we have Federal charters. Do you not think the small-business men should have the same chances of obtaining a charter for their small business? I have not heard the gentleman from Indiana (Mr. HALLECK) arguing against Federal charters for national banks. I have not heard him or the other supporting this amendment argue any against Federal charters for Federal land banks or for production credit associations or for savings and loan associations or for others I could mention. Why would they just object when a bill comes up just for the small-business man? Why should it now be for the first time that a tollgate be put into the legislation for small business?

The small-business man has to pay here and pay there and now this tollgate. He will not even have his shirt left if we keep putting in these deductions for him to pay. We want fewer deductions; we want to give these small-business people a chance.

This amendment would handicap this bill for two reasons: First, it would channel all business through the 48 States. All the States' supervisors of financial institutions are not friendly to small business. They do not know the problem as we do. We have studied it. The State officials will probably not be sympathetic to this program. They would put it under the banking agencies or banking associations. The banks would not be sympathetic to it. To require a State charter, under present State laws, would be a handicap and small firms would be deterred in their efforts to get loans as they have in the past. So let us not turn this back to the 48 States and say, "See your local lawyer and go through your State." This is a Federal proposition. It affects our national economy. It affects the economy in the 48 States. It is not just a State matter.

Mr. BROWN of Georgia. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. BROWN of Georgia. Is it not true that State savings and loan associations are asking to become Federalized?

Mr. PATMAN. Yes. Many are becoming federalized now. They prefer it. It is the same setup here. If the small-business investment company wants a State charter, they can have it. If they want a Federal charter, they can get a Federal charter.

It has been argued that it will require more Federal employees to grant Federal charters. It will require no more people, because it will require just as much work to pass upon whether a State chartered company is eligible to do business with the SBA, as it will to issue a charter in the first place.

Mr. McDONOUGH. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. McDONOUGH. May I call the gentleman's attention to the section of the bill that provides for the Federal charter investment corporations that may be converted to State chartered investment corporations. The gentleman is not opposed to that; is he?

Mr. PATMAN. No.

Mr. McDONOUGH. But you do say that most of them should go to the Federal Government for a charter rather than to the State?

Mr. PATMAN. No. I am for the State charter, too; I say give the small man a choice. But I am not for the tollgate, where they have to make a compulsory contribution to lawyers. I do not object to the lawyers doing the work, and I do not object to them getting a fair fee for it, but I do object to a compulsory tollgate.

The CHAIRMAN. The time of the gentleman from Texas [Mr. PATMAN] has again expired.

Mr. KILBURN. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. McVEY].

(Mr. McVEY asked and was granted permission to revise and extend his remarks.)

Mr. McVEY. Mr. Chairman, we have had some excellent talks on this legislation this afternoon. But I would like to bring together some of the essential provisions in this bill, because upon the merits of those essential provisions we are going to vote up or down this legislation.

I have made a note of the principal provisions to which I think we should direct our attention.

It has been said many times that this legislation provides for only long-term capital, and that investment is not to be made directly to business concerns, but is to be made to the small investment companies. Those companies may be chartered in Washington or in the locality of the investment company.

These loans are made by the Small Business Administration through the Deputy Administrator appointed to administer the provisions of this bill. We have legislation already enacted for short-term loans. Bills of that character are on the statute books. There is at the present time a sufficient amount of money provided for short-term loans to small business. This bill, as I have said, provides long-term capital loans for small business.

The need for this legislation has been expressed by the United States Chamber of Commerce, the American Bankers Association, and the Committee for Economic Development. To my mind it is a safe and sound bill, and one we can support if we understand its provisions thoroughly.

These investment companies will at all times be under the supervision of the Small Business Administration.

A revolving fund of $250 million is provided. This fund according to the bill before us cannot exceed the $250 million ceiling.

This bill has been reported favorably by the Banking and Currency Committee before which hearings were held, and much time was given to the consideration of the merits of the bill. I wish to support it and recommend its passage.

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. McVEY. I yield.

Mr. WIDNALL. Is it not true that under the provisions of this bill a company would have to start with not less than $300,000 in paid-up stock?

Mr. McVEY. The gentleman is correct.

Mr. WIDNALL. And the maximum that can be furnished by the Small Business Investment Company to any one concern is $150,000?

Mr. McVEY. The gentleman is correct.

Mr. WIDNALL. Is it not also true that any borrower would have to purchase from 2 to 5 percent stock in the Small Business Investment Company?

Mr. McVEY. That is true.

Mr. VORYS. Mr. Chairman, will the gentleman yield?

Mr. McVEY. I yield to the gentleman from Ohio.

Mr. VORYS. I have heard of a minimum for the Small Investment Company; is there any maximum?

Mr. McVEY. The maximum loan to any particular company is $150,000.

Mr. VORYS. One hundred and fifty thousand dollars?

Mr. McVEY. Yes.

Mr. VORYS. Is there any upward limitation on what size the company would have to be? I mean, would it be possible for a $10 million or a $20 million company to organize and get a $150,000 loan?

Mr. McVEY. No; they could get only $150,000 for purposes of organization. That is the maximum that the organization or the administration can supply.

Mr. VORYS. Is there any limitation in this bill on the size of a business called a "small business"?

Mr. McVEY. The bill does not define the term "small business." I suppose the customary acceptance of what a small-business concern is would apply in this case.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. McVEY. I yield to the gentleman.

Mr. JONAS. What is the reason for the requirement that at least 10 persons must subscribe to the articles of incorporation before a Small Business Investment Company can be organized? In my State, for example, 3 people may form a corporation, but this requires 10. I wonder why.

Mr. McVEY. I do not know that I can answer the question correctly, but it seems to me it is provided for the purpose of spreading responsibility in these investment organizations.

(Mr. NEAL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. NEAL. Mr. Chairman, the ordeals imposed upon small business during recent years have increased as inavailability of capital funds has shrunken, as Federal taxation has failed to recognize inequity and as the trend toward big business operations has reduced their competitive advantages.

The distribution of economic well-being of our Nation will depend more and more upon the successful operation of local industry and business where local employers and local tax contributions can help toward building and supporting aggressive forward-looking communities.

The Small Business Administration, empowered to grant short-time loans to new and hard pressed businesses has established a creditable record for saving local establishments from financial ruin. There is a great need for longer term availability of funds to encourage development and profitable operation of this type of local endeavor. This bill gives promise of meeting this need. It should be approved by the Congress after adoption of the amendment to eliminate the provision that small-business investment companies must be chartered by the Federal Government. The Federal Government's authority over rights and privileges belonging to the State under our Constitution have already been too frequently preempted.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. HENDERSON].

Mr. HENDERSON. Mr. Chairman, I shall possibly give voice to some of the unuttered questions of my colleagues here concerning this legislation. I am sure there are many such questions be-

cause this is legislation which marks an uncharted venture for the Federal Government.

I approach the subject with many misgivings because it does not require too much perception for me to see in this device a step in the direction of public ownership and its accompanying control of business. Of course I realize that the amount of Federal money loaned, but in reality invested, in a given enterprise will in no event approach a majority of the total capitalization, but we are aware that an effective minority can have a powerful voice in the operation of a business venture, especially if that minority should happen to be the sovereign state. I realize too, that there is no statement of intent that there be any control, and certainly no permissive or mandatory language that would give the Government any control, but both of those can come in later legislation after the initial step has been taken.

The bill has been carefully worded, and the provision for the establishment of small-business investment companies by private individuals who can obtain up to 50 percent of their financing from the Federal Government, seemingly breaks the chain which would link the Federal money and the company which needs it. We are providing for the establishment of a middle man to parcel out the Federal money which we authorize by this bill. It is hoped that this maneuver will remove the taint of possible Federal control of the commercial activity or of public ownership. These are the dangers which we should guard against. Time and experience in the years ahead will determine whether we have provided effective safeguards.

Most of the advisory bodies and organizations which have studied this proposal as well as the committees of Congress are convinced that there is a need for funds to provide small business with long-term equity capital. The American Bankers' Association which would appear to have reason to be critical of such a proposal has indicated that there is a need for this type of financing which the banking industry has not met. The Committee for Economic Development, the United States Chamber of Commerce, the Federal Reserve Board, the Department of Commerce and the Small Business Administration all seem to indicate that there is a need for such funds.

Authorization is contained in this bill for a revolving fund of $250 million to be established from appropriated funds. These funds will be administered by the Small Business Investment Division of the Small Business Administration. The Division would be authorized to charter small-business investment companies incorporated by 10 or more persons. The SBA would have discretion in issuing the charters and could take into consideration many pertinent factors in its consideration of the request of the proposed company for a charter. Each small business investment company would be required to have not less than $300,000 of paid-in capital and surplus before commencing business. The SBA is authorized to provide a maximum of $150,000 to each company formed, through the purchase of subordinated debentures. The SBA could also make other loans to the investment companies not to exceed 50 percent of the paid-in capital and surplus.

These small-business investment companies having been formed and provided with a mixture of private and Federal funds could then provide equity-type capital to small-business concerns through the purchase of convertible debentures, containing terms and interest rates as the companies fix under SBA regulations. Parenthetically, I would like to mention, that here is a measure of control, not over the operation of the borrowing company, but over the terms of the funds. The investment companies will not be free agents.

Loans may be made directly or in participation with other lending institutions, at a rate of interest established by the SBA for terms up to 20 years with a provision for an extension for 10 more years.

This is a brief summary of the provisions of the Small Business Investment Act. No Federal control over the operation of the borrowing company seems apparent, yet I know of no reason why the SBA cannot suggest or even demand a course of conduct as a condition to an investment company's granting a loan. Thereafter, the borrowing company knowing that it may need an extension of that loan at some time in the future, will be inclined to pretty well follow a suggested course of conduct; and when the time comes to approach the investment company for an extension of the loan, many, many conditions can be incorporated.

I wonder what a borrowing company will think about this new partner that enters his concern. Reports, reports and more reports could be the order of the day. Inspection on the heels of inspection can be his fate. Congress, heretofore lacking authority over the internal management of a business entity may find it convenient to enact regulations and codes of conduct to apply to those firms which have found it necessary to resort to this new type of financing.

The need for funds is conceded by most all of us. The method suggested by this bill may bring some surprises, as Uncle Sam assumes a new role as Uncle Sam, silent partner. Will he remain silent?

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. I should like to inquire as to what is meant by small business? We have been using the term loosely here for a number of years as that business which has less than 500 employees. How do we use the term "small business" in a definitive sense in this act with reference to that loosely accepted definition here?

Mr. HENDERSON. I will be pleased to yield to the chairman to answer the question.

Mr. FLOOD. I think the gentleman from Texas [Mr. PATMAN] can help us.

Mr. PATMAN. Of course, the term "small business" is relative. It depends on the type of business. In some lines of business $250,000 or $350,000 would probably be a monopoly—in the case of needlecraft and things like that. In other lines of business, such as the automobile business, it would not mean much. It is a relative term. One definition of it has been "small business is any business that is not large enough to have a Washington representative."

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Connecticut.

Mr. SEELY-BROWN. I think I am correct when I say that the definition as to what small business will be is subject to determination by the SBA. It has the authority under the enabling act which created the Small Business Administration and a new act has just recently been passed by each House.

Mr. HENDERSON. That is correct.

Mr. SEELY-BROWN. That definition will be determined by the SBA in accordance with the ground rules laid down by this Congress itself.

Mr. MEADER. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Michigan.

Mr. MEADER. I am very much concerned about the creation of corporations by the Small Business Administration as is set up in title III, the matter that the gentleman from Indiana called attention to. Now, I wonder if the gentleman from Ohio has given any particular study to that phase of the bill and how it may affect the operation of the corporation statutes of the several States.

I know that in the State of Michigan, for example, to incorporate, the incorporators have to pay filing fees; corporations have to make annual reports and pay franchise fees, and a considerable amount of revenue to the State of Michigan is derived from that source.

I do not know what limits are going to be insisted upon by the Administrator as to the type of business that one of these small-business investment companies might engage in, but conceivably, if you do not have to pay any franchise fees or filing fees and are not subject to the corporation laws of any State because you have a Federal charter, I can see a possibility of disturbing the corporation laws of this country by the provisions of title III and giving the Administrator of the Small Business Administration the power to create corporations. I wonder if my fear is unfounded.

Mr. HENDERSON. I might say to the gentleman that there are two questions involved: Regardless of where the entity comes from, whether it be Federal or State, the Small Business Administration still has the authority to determine whether or not it will recognize it to do business under this act; in other words, questions relative to the need in the particular community, and a great number of other questions must be answered before the SBA will authorize a small-business investment company, whether State chartered or otherwise, to do business and to use Federal funds. The second question, of course, is the method of

organization. The two questions should not be confused.

Mr. MEADER. I would like to complete this matter, if the gentleman can clear it up for me. It seems to me that this might be an avenue through which the Small Business Administration could create corporations. Now, their charter might require them to do nothing but loan to a small-business enterprise, and maybe the Administrator could say "Well, you are not doing that kind of business; you are out buying bonds on the general market and securities of concerns that are not small business, and we will not let you operate under this act any more." But, they still have their charter; they can still do business. What policing is there by the Federal Government that is comparable to the policing that a State government does in reference to corporations created under State law?

Mr. HENDERSON. I might say to the gentleman that the investment companies once formed, were they to violate the regulations imposed upon them, would not be able to use Federal funds, would not be eligible to borrow SBA funds to continue to operate, and could not, as such, lend any Federal funds. Line 20, page 11, of the bill suggests this limitation.

Mr. MEADER. But, would they still not be an incorporated business able to do business?

Mr. HENDERSON. A State-chartered corporation would be. The fate of a Federal corporation is in doubt.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PATMAN].

Mr. PATMAN. The bill provides that the term "small business concern" shall have the same meaning as found in the Small Business Act of 1953.

Section 203 of the act reads:

> For the purpose of this title, a small business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administration, in making a detailed definition, may use these criteria, among others: Number of employees and dollar volume of business.

So, that definition, I believe, is as good as any definition that could be arrived at, and I think it is satisfactory. It puts on SBA the responsibility of setting standards and criteria depending upon the type of business the firm is engaged in.

Mr. KILBURN. Mr. Chairman, I ask unanimous consent that all Members may have permission to extend their remarks at this point in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. EVINS. Mr. Chairman, the chairman and the members of the Banking and Currency Committee are to be commended for bringing to our consideration in this session this far-reaching legislation. This small-business investment bill attacks one of the most serious problems facing small business and offers an effective tool to help preserve the position of small business in our economy and thereby to insure a continuation of the climate of opportunity which has been one of the most important characteristics of our American system.

The most immediate assistance that we could give to small business would be an equalization in tax treatment. Earlier this week we took some steps in this direction. It is regrettable that the economic conditions of our country and the fiscal position of our Government makes it impossible at this time to go as far in this direction as most of us know we ought to go.

Our inability to act it the field of taxation gives us all the more compelling reasons for taking action to help small business in this equally vital area of providing a better source of capital for the expansion of present small business and the creation of new small businesses.

Seldom has there been as complete unanimity as to the need for legislation as there has been in regard to the need for providing better and more easily available sources of investment capital for small business. The Small Business Committee of this body has held hearings in this area since last fall. The equivalent committee in the other body has also held hearings on this matter in the past few months. We heard testimony from high officials of the executive branch, from the Governors of the Federal Reserve System, from the Department of Commerce, from private bankers, from economists, and from businessmen. The testimony has been unanimous as to the need for some access to long-term capital on conditions small business can meet.

Furthermore, Mr. Chairman, economic studies indicate clearly that the position of small business has been deteriorating rapidly in the past few years and that the disadvantages it suffers in the field of financing have been becoming more and more serious. Big business has access to ample sources of capital for expansion. The effects of our own Government's fiscal policies have tended to open the doors to additional capital wider for big business and to close them for small business. For example, the repeal of the excess-profit taxes freed for big business a tremendous source of capital for expansion. Similarly the so-called tight money policy tended to put small business at a far greater disadvantage in this respect. It is time we took action in this field and I am pleased to see this bill before the committee today.

Since this is a new venture into a field where we have had little previous experience there have been differences of opinion as to the best way of meeting this great need. Nobody really knows whether this is the best way to do the job. But it is a big step in the right direction. I am confident it will work and that with greater experience we can eventually devise a system which meets the needs of small business in this area efficiently and effectively.

The facilities we will set up in passing this bill will not be in competition with private financing institutions or other sources of capital but will supplement and augment them. It is designed to fill a real need which no present institutions could fill adequately. It has been approved by the bankers themselves. It will be of special value, in my judgment, in the rural and less developed areas of our country where opportunities for business have been declining recently and where sources of investment capital are the most limited.

Mr. Chairman, as a member of the Small Business Committee, I want to urge all my colleagues to vote for this bill. By passing it we can strike an effective blow to preserve the equality of opportunity and the system of free enterprise which have been among the great glories of our way of life.

The need is present. The opportunity here exists to be of real service in an area where some assistance is pressing and I trust this bill will be approved.

Mr. McCARTHY. Mr. Chairman, this bill was designed to make available more equity capital for small-business investment. It should improve the competitive position of small business in the capital market of the United States.

I am assured that the authors of the bill and the committee reporting it are confident that the institutions resulting from the passage of this bill will not in practice be in competition with small, independent commercial banks.

Mr. Chairman, I favor the passage of this bill.

Mr. BROWN of Missouri. Mr. Chairman, this Small Business Investment Companies Act of 1958 may well be and certainly should turn out to be one of the finest achievements of the 85th Congress.

It is not a highly advertised or glamorized measure, and it may sound a little confusing to many small-business men. But it is an historic step toward protecting the future of small business, and I am proud to have played a part in the long, hard committee work that started the ball rolling and hammered out this bill.

This act seeks to fill a void in the American financial community, a void that has existed for a long time. With this act, Government is stepping forward and asking American investors to invest venture capital in small business. With this act, Government is trying to encourage a reasonable flow of private capital into worthy smaller enterprises.

And in a constructive positive way, we are striking a blow against monopoly and giantism by strengthening competitive forces.

Now, I am sure that many people feel that nothing can really be done to keep big business from eating up the small. It has become a fad, to say blithely that big business is more efficient than small business. They point to quantity purchasing, fancy equipment, and so forth to prove that the giants will inevitably own it all. Well I have had some experience with some of the Nation's largest businesses. I have a wholesome respect for their operations. But let me tell you that efficiency and economy are not always their greatest attributes.

When a big business gets giant size, just the simple task of informing each other—holding meetings and conventions and talking over long distance telephone—becomes an appalling expense.

Further, they often become slow-acting and sluggish. They cannot react to a changing situation as rapidly as a smaller firm.

In most fields, the good small business may well be more efficient than a big business, especially in distribution—wholesaling, and retailing.

If they are good, small businesses join buying groups and buy at quantity discount. They purchase advertising at local instead of higher national rates. Their operation is not unwieldy or cumbersome.

If this act works as it should work, there will be hundreds of small business investment companies scattered over America performing investment banking service for small business. The little man will be able to get well-rounded tailormade financing help quickly, just as the giant corporations get it at investment houses on Wall Street.

And this is a crying need. Generally speaking, the good small business can get short-term working capital. Commercial banks are performing this service.

But when it comes to long-term loans for equipment and plant or when it comes to expanding facilities, the little man has a real problem.

Occasionally, a small business gets an insurance company to make a real estate mortgage loan. But by and large, most small business equipment purchases are financed by chattel mortgages held by suppliers—short-term paper, heavy monthly payments, and high interest rates.

Let me give you an example. There are two clothing stores on the public square of your hometown. One is owned and operated by John Smith—a local man who grew up in the clothing business, a good operator highly respected.

The other is a good operation, too, 1 of some 500 stores owned and operated by a national chain which is listed on the New York Stock Exchange and whose stock is widely held by small individual investors around the country.

John Smith and this national chain are competing heatedly, each getting a share of the town's clothing business.

Pursuant to a national expansion, the chainstore decides to modernize and remodel.

The company comptroller at the national headquarters goes to an investment bank probably on Wall Street and unfolds an elaborate brochure, showing what the company wants to do, and winds up by saying we need $2 million.

The investment bankers, experienced financial men, go over the plans and arrive at a complete financial program. A portion will be handled by long-term bonds or preferred stock, another part in common stock, so much in mortgage debt to be held by insurance companies. A complete financing program.

The company agrees and the investment bank writes them a check for $2 million. Then the company proceeds to modernize their stores all over the country, while the investment bank is selling the bonds and the stock to thousands of small investors all over America.

The investment banks, the insurance companies, the mutual funds, the whole financial community thinks primarily in big business terms. The best service is for big business.

It's so much easier to handle a $2 million capital program than it is to fool around with 200 different $10,000 programs. Investors are educated to it. It's a natural flow. And where capital flows, business volume will follow almost without exception.

So, the national chain operation gets capital. But what happens to John Smith who must modernize and improve his operation to compete? Well, first, he talks to his local banker. The banker tells him that it's a good idea; but explains that, under the banking laws, the commercial bank is designed for short-term loans, working capital to cover inventory and accounts receivable and emergencies. They're not set up to serve long-term capital needs.

So, together, they contact an insurance company. But the answer is that the insurance company is not very much interested in a small loan of that size. Only some 6 percent of their total dollar loan volume has been going to small businesses.

Certainly, investment banks and most stock brokerage houses are not interested in John Smith's clothing store on Main Street.

So, unless the merchant can persuade the wealthy widow or the rich uncle to help him out, or unless he makes a mistake and loads himself down with short-term chattel mortgages to equipment suppliers, he is sunk. He just cannot modernize.

A serious void exists in the financial community; small business does not have adequate sources for equity capital and long-term loans. Congress recognized this void years ago and adapted the Reconstruction Finance Corporation as a new source for small-business long-term loans. That Government agency was a lifesaver to many a small business.

Later, the Congress created the Small Business Administration as a source for semi-long-term loans for small business. That agency exists today. It has helped some small businesses. It is now doing a better job than it did. But it is not anywhere near the solution to the problem.

In the first place, the total loans made by the SBA represented seven-one-hundredths of 1 percent of the Nation's expenditure for new plant and equipment last year. It is a mere drop in the bucket.

And even expanding the SBA is not an adequate answer to this vast problem.

First, the SBA is a loan agency. It is not authorized to solicit capital for small-business firms. There are no aggressive SBA salesmen out selling investors that they should invest in small business. And that is what small business needs. They need a source for capital that is similar to investment-bank service for big business.

Second, the SBA is a Government institution. No one's salary in the SBA offices around the country is dependent on making loans. So what if they delay a decision on an application? So what if they make $50,000 worth of loans this quarter instead of the $1 million they should have made? Everybody will get his paycheck just the same. Small business needs a source for long-term loans operated by a company that has to make loans to survive, and has to make good loans or go broke.

This Small Business Investment Companies Act seeks to establish investment-banking service for small business. This bill creates investment companies around the country which are to interest investors in investing in small-business investment companies that will make long-term loans or sell equity shares in small businesses that have a right to a future, investment companies that will correlate and handle the financing problems of a small business, like John Smith's clothing store.

These investment companies will eventually be owned almost entirely by private capital. They will be started with some Government assistance, but Government money will be a minor part of the picture.

The directors and management of the small-business investment companies will have a monetary interest, a profit incentive, in soliciting investment funds for small business and in ferreting out good small businesses to employ those funds.

Small-business men who would otherwise be handicapped in growth by lack of knowledge of stocks and debentures and business finance will have an investment company's skilled assistance readily accessible.

If this plan works as we who have fathered it believe it will work, small business will in time have more adequate sources for equity financing and long-term loans.

If the plan works as it should work, good efficient small businesses will be able to hold their own against giantism concentration.

The young man with skill and know-how will be able to take a new idea to his small business investment company and, if it has merit, get financial assistance in launching it.

If this plan works, and is expanded, it could well be the most effective anti-trust and antimonopoly legislation yet, because it is a positive step, a constructive approach toward strengthening competition.

Instead of relying on "anti" legislation to slow down this headlong dash to giantism, instead of always trying to "bust 'em up," let us strengthen the other clubs in the league. This bill can mean more competition, less concentration.

Now, these good things can happen and will happen if this bill is administered by people who believe in it and who will set out to make it work. If it gets halfhearted, insincere handling, if it is bogged down in red tape and legal jargon by eye-dotters and tee-crossers who lose sight of the total picture by concentrating too intently on their own personal interests, this bill will not achieve what we want it to achieve.

But I believe in this bill. In the long range, it can and should prove to be a monumental legislative achievement. This is a big step, a step that we should be able to look back on with pride one of these days.

Let us pass it; and let us see to it that it is administered with tender loving care.

Mr. RAY. Mr. Chairman, I rise in opposition to S. 3651. In principle it seems to me just bad practice for the Government to enter the field of furnishing long-time loans to provide equity capital as contemplated by this bill.

The $250 million fund and the cost of administering the Federal Government's functions under the bill seem exorbitant and extravagant in relation to the speculative benefits small business might get under the bill. The $250 million figure is just a start, of course, if this program is embarked upon.

Mr. Chairman, small business needs and should have tax relief and accelerated depreciation opportunities. In the absence of legislation for those purposes, S. 3651 seems to me an idle gesture. I have had no request from constituents to support this bill.

Mr. ROGERS of Florida. Mr. Chairman, the Small Business Investment Act of 1958, S. 3651, will provide investment capital and long-term credit for small-business concerns of our Nation, very much needed to aid all of our economy but especially small business.

The bill will establish a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply. The bill provides for the maximum participation of private financing sources.

The program under this bill will be administered through the Small Business Administration. The present business loan program of that agency is limited to providing short-term and intermediate-term credit when such loans are unavailable from private financial institutions. This program does not provide equity financing. This bill under consideration would provide the long-term loans and equity capital now needed by small business.

This legislation will be a big help to all sections of our economy and the small business units will particularly benefit. At the present time the country's financial institutions are unable to make equity loans and the small-business men have most of their assets tied up in buildings and equipment, and are not able to get the needed money for expansion and improvements. S. 3651 will provide this new capital, and at long-term rates that will encourage this needed progress.

Mr. Chairman, I sincerely hope that this bill will receive the assistance of each Member, so that we may see speedy passage of this bill which will do so much toward strengthening the position of our small-business men, and thereby strengthening our entire economy.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. ALGER].

(Mr. ALGER asked and was given permission to revise and extend his remarks.)

Mr. ALGER. Mr. Chairman, I had not intended to take part in the debate today, but I had no idea the kind of bill that was coming to the floor of the House or how little opposition there would be to this proposal, the Small Business Investment Act of 1958.

By the way, Mr. Chairman, I must observe that there is no minority report, to which I take exception, because I know that several members of the committee were opposed to the bill, and I believe there is a viewpoint that needs to be expressed.

Mr. Chairman, I now want to refer to the hearings at page 977. Lest anyone think there were no hearings, let me quote from one of those who testified. He directed his remarks specifically to equity capital and long-term credit for small business. The witness is Mr. Wendell B. Barnes, Administrator, Small Business Administration, and this is what he said:

> In the case of equity capital financing, however, there is no equally objective method of evaluating the risk and determining eligibility. Thus, if no objective method of determining eligibility exists, it is most difficult to determine to whom equity capital financing shall be extended and, therefore, what the limits of the program shall be; the demand for equity capital may be limitless. In the case of credit financing, collateral can protect the lender; in the case of equity financing, the investor is protected only to the extent that he has correctly analyzed the potentiality of the business and is granted an opportunity to have a voice in control of the management. This is a function for which the Government is ill adapted.

Then he proceeds to outline 10 points which I think—at least as far as I am concerned—proves without a doubt that this bill is self-defeating. I leave those for your own consideration. I just wanted the Members to know that they are here in the record of the hearings.

I was one of those who opposed making permanent the Small Business Administration. I realize what a small minority that places me in. But I must tell you that there are a great many people across this country, and certainly down where I come from, contrary to what anyone may think from listening to other Representatives, who do not believe that this is the function of the Federal Government.

As to equity capital, why can the small-business man not get it from the banks? Because they are a poor risk? Is that any reason for Uncle Sam to step in? I hardly think so. Also, let me tell you that this will expand Government personnel considerably. Read the bill. Section 201 specifies a whole new division and also mentions other employees that are involved and where they would be as to their civil service grades.

Mr. Chairman, who are going to get the loans? Here is one of the most challenging matters in the bill. Unless everybody gets a loan it is not fair. And obviously we cannot afford to give everybody a loan. Who is so wise to grant loans to some and deny them to others? This is not the function of government. Government financing with taxpayers' money is unfair advantage for the benefited businessman over his competitors. In fact, it is the taxpayer's own money that is subsidizing his competitor.

It also applies to the smaller loans. It seems to me it is quite likely that we will be subsidizing poor business operation, since the loans will be made only if the loan is not available elsewhere.

At a time when this Government is running a terrific national debt; at a time of national emergency, this is no time for us to play fast and loose with the taxpayers' money. In view of the amount of the national debt, and the deficit we are facing this year, I decry this alleged help to small-business men who are able to stand on their own feet.

Mr. Chairman, also I take exception to the definition of small business. I defy anybody to tell me what that definition of small business really means. I cannot figure it out, and I include the one that was given to us on the floor earlier today.

How are we going to help small business? One very simple way that we can is to cut the spending that we are doing so recklessly in Congress. If we do that, then we will be able to cut back taxes, so that some small-business men do not have to get loans to pay their taxes, or ask for these equity loans.

Secondly, we need a balanced budget more than we need inflation at this time as a real help to the small-business man. And no amount of wording or complicated provisions such as are in this bill is going to help the small-business man.

I happen to have the feeling, and I am sure many of the Members do, that what the people want most of all, including the small-business men, is a tax cut. And only by opposing some of these large spending measures can we help get that tax cut for the small-business man.

The thing that appalls me the most is that there is not any division of opinion particularly here today in this new venture by the Federal Government. If one political party conceives an idea, the other party has got to beat them to the punch. So today we have a bipartisan push behind this new venture which even the proponents of the bill call an experimental field. We are treading on brandnew ground. This is not the time for us to tread on new ground with the taxpayers' money.

Mr. Chairman, it seems to me that this is a time of crisis and we need national solvency more than we need to add to the $15 or $20 billion deficit staring us in the face.

I conclude, Mr. Chairman, by saying to you that this is self-defeating legislation under which businessman is set against businessman at the expense of the voiceless or forgotten taxpayer.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. MEADER].

(Mr. MEADER asked and was given permission to revise and extend his remarks.)

Mr. MEADER. Mr. Chairman, I have asked for this time because I should like somebody on the committee or perhaps somebody on the Committee on the Judiciary to give me some enlightenment on title III of this measure.

Title III authorizes the Small Business Administration to charter corporations, small-business investment companies. I realize it is for a period of only 3 years that the act gives that authority to the Small Business Administrator, but any corporation created within the next 3 years could have a life of 30 years, and would not be dissolved even though the authority of the Administrator to grant new charters expired.

Under State laws there are rather elaborate provisions for the governing of corporations and their permission to do business as corporations. I am concerned about granting this rather broad power to the Administrator and its effect upon the operation of the corporation statutes of the several States.

I know that in the State of Michigan corporations are required to pay a filing fee, they are required to pay a certain amount on the stock they are authorized to issue, they are required to pay annual franchise fees, and substantial revenues are derived by the State of Michigan from that source. But from a federally chartered concern no fees of any kind are required either to incorporate or to conduct business each year, as is required by most State laws.

Certainly, if the powers are broad enough to do what a small investment company should do, it could engage in almost any kind of business, I believe, and still not impair its corporate authority. I can see that this might be a fine thing for people who want to incorporate but do not want to pay fees and taxes for State incorporation, for they can simply run down to the Small Business Administration and get a charter. But I wonder what effect it will have on State laws.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from North Carolina.

Mr. JONAS. Is there any provision in title III for supervision of corporate activity by the States? Who will be in charge of supervising these activities?

Mr. MEADER. That is a question I should like to have answered by a member of the commtitee.

Mr. MULTER. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from New York.

Mr. MULTER. I will try to answer some of the gentleman's questions.

This is not a novel procedure or a new method of forming Federal corporations or corporations with national charters. The language we have used in this bill is similar to that which is used in at least three other instances.

No. 1, credit unions. We have a Credit Union Act on the Federal statute books, under which the Federal Government charters Federal credit unions, quite apart from each State having the right to do the same thing. The States do it and the United States Government does it.

Second, we have a Federal statute which permits the chartering of savings and loan associations. Every one of the 48 States has similar laws. There is no interference one with the other.

Third, and most important, and what probably has the longest legislative history, is the chartering of banks. Every State in the Union charters State commercial banks and so does the National Government under a Federal statute. It is under our National Banking Act, that our national banks are organized.

We have tried to use as nearly as possible the language of the statutes as to credit unions, savings and loan associations, and banks, so that these new companies will not have carte blanche to do anything and everything they please. A corporation that will be organized under the authority of this act when chartered by the Small Business Administrator will be limited to the authority as set forth in the act. At the same time, each State has the authority to enact legislation to permit the organization of this same kind of corporations. If existing State law permits that, then the State corporation can go to the Small Business Administration and have all of the benefits af a nationally chartered corporation under this act.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield.

Mr. JONAS. The Federal Government has national bank examiners and we also have examiners in the savings and loan field to which the gentleman referred. Where is the provision here for any supervision by any Government agency over the activities of these corporations that you propose to charter?

Mr. MULTER. We also have supervision through the Federal agency of the credit unions and you will have the same thing here by the rules and regulations that will be set up by the Administrator for the chartering, operation, and supervision of both the Federal and the State corporations.

Mr. JONAS. It would take an army of investigators to do that.

Mr. MULTER. The provisions for examiners and examinations at the expense of the companies and not at Government expense, are in this bill at page 20 as a part of section 308.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KILBURN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. SHEEHAN].

(Mr. SHEEHAN asked and was given permission to revise and extend his remarks.)

Mr. SHEEHAN. Mr. Chairman, I rise in support of the small business bill under consideration. I do realize some objections have been made to certain parts of the bill as to its method of operation, but I am sure the House in its wisdom can clear up these objections with the proper amendments. I am sure that in the agreement with the other body that the bill will bring forth conditions and terms which the small business community can all look forward to living with. A previous speaker talked about the fact that what small business needs is not so much legislation of this sort as it needs tax relief. I agree with that very much, with this exception—that small business cannot get adequate tax relief.

In 1953 and 1954, I was a member of a Small Business Subcommittee under the chairmanship of the gentleman from Connecticut [Mr. SEELY-BROWN]. We heard many firms testify before us to the problems that they had encountered in their growth because of the tax situation. Many firms told us how they grew and how they would make over $25,000 a year. Taxes would hold down their expansion. They needed money for plant expansion. Unfortunately, the Government after $25,000 of profits took 52 percent of their profits and they could not save money because of the tax situation.

This year when the Committee on Ways and Means began hearings with regard to tax relief for small business, I was fortunate to be the first witness to testify in behalf of the small business tax bill which I and other Republican members of the Small Business Committee, had introduced. I pointed out at that time to the Committee on Ways and Means that every committee in the Congress had given help to small business except the Committee on Ways and Means. I cannot say that any more for the simple reason that last week a bill came out of the Committee on Ways and Means giving a certain amount of tax relief to small business. Unfortunately, I do not think the tax relief afforded by that bill will be adequate.

What small business needs is risk capital. As long as banks and the stock market and other financial institutions cannot provide business with small capital, then it seems to me this bill provides an avenue for help for small business. I feel although there is a point that the gentleman from Texas made, that Government should not be interfering and that we should have regard for the taxpayers' pocketbooks, if there is no other way possible of getting help for small business, then I support the provisions of this legislation.

Mention was made of risk capital. The banks will give small business money if they need it on their inventory and if they need it on their accounts receivable, but the small-business man who wants to build a building which will take 20 or 30 years to depreciate or who wants to buy machinery which will take 10 or 15 years to depreciate cannot possibly get that money from banks or savings and loan institutions or from practically any other financial institution today. Therefore, in many cases, his last resort is to come to the Government and to see whether the possibility is there for him to obtain money for expansion or risk capital.

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. SHEEHAN. I yield.

Mr. SEELY-BROWN. I think the gentleman made a very good point. While this bill should be helpful, I think all of us can agree that the most helpful thing we can do for small business is to provide proper revision of our tax laws

along the general terms outlined by the gentleman who is now addressing us.

Mr. SHEEHAN. The gentleman from Connecticut [Mr. SEELY-BROWN], is eminently correct. The gentleman knows all of the Republican members of the Small Business Committee as well as all the Democrat members of the Small Business Committee in their tax bills, which they introduced, tried to provide a ceiling of $100,000 or $150,000 before the surtax tax rates would apply.

In these tax bills the small-business man on his earnings up to $100,000 or $150,000 would only have to pay 30 percent, the normal tax rate. That would give him money to expand. Under our present tax laws he does not have the money to expand, nor do I see, in the immediate future, his getting adequate tax relief. So this legislation is the only means I can see at this time where small business has a chance of getting help for such capital and equity expansion.

Mr. MULTER. Mr. Chairman, will the gentleman yield?

Mr. SHEEHAN. I yield to the gentleman from New York, who has done such a tremendous lot of work for the small-business community.

Mr. MULTER. I thank the gentleman for those kind words. I would like to recall to the gentleman that all of these small-business bills when originally introduced had tax features written into them. Those tax features have been eliminated from this bill on the assurance of the other body and the House Ways and Means Committee that a bill will be enacted which will cover the tax situation so as to create additional incentives to carry out this program.

Mr. SHEEHAN. I thank the gentleman for his observation.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SHEEHAN] has expired.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BROWN].

Mr. BROWN of Georgia. Mr. Chairman, I would like to quote from the testimony of Mr. Wendell B. Barnes, Administrator of the Small Business Administration, when he appeared before our committee. Here is what he said, which appears on page 980 of the hearings:

> I would like to recommend to this committee favorable consideration of H. R. 12057, entitled "Small Business Capital Act of 1958," which on April 22, 1958, was introduced by Mr. TALLE. A number of similar bills have been introduced by other Members of the Congress.

I have just talked to Mr. Barnes out here, and he says he is for this bill.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. COAD].

(Mr. COAD asked and was granted permission to revise and extend his remarks.)

Mr. COAD. Mr. Chairman, today the House is considering an important piece of progressive legislation and I am pleased to be among those urging its enactment. Today the House is demonstrating its willingness to face up to the realities of economic life by dealing directly with one of the inequitable conditions under which the small-business man is required to compete. The situation to which I refer is that wherein the small-business man finds himself handicapped because of his inability to obtain long-term loans and equity capital financing in any fashion commensurate with that enjoyed by his giant competitors.

This discriminatory situation has received the attention of economists and Government leaders for many years but it is refreshing to realize that today, by the enactment of this bill, we will be helping to remove one of the barriers to the advancement of the small business segment of our economy.

As a means of demonstrating the fact that today we are dealing with the most important group of our country's businessmen, let me tell you that a recent report of the House Small Business Committee discloses that 99 percent of all firms doing business in the United States employ fewer than 100 employees; that those companies employing fewer than 500 employees accounted for 99.8 percent of all business firms doing business in this country. There are between 4 and 5 million such small business concerns doing business in this Nation, but despite this amazing bit of statistical information, we must recognize that big business dominates our economy. We are certainly justified therefore in passing legislation that will help correct any discriminatory aspect in our economy that serves to retard and jeopardize the progress of these 4 to 5 million manufacturers and merchants.

Inasmuch as the financial problems of small business have been studied by Government officials and economists during the past 20 years or more, there exists a wealth of evidence pointing to the fact that financing opportunities available to small business are wholly inadequate. The sources of capital for big firms are many and adequate; the sources for small firms are few and scarce. More than 10 years ago, the Committee for Economic Development asserted that one of the fundamental needs of small and medium size business is more adequate financing—more ownership funds are needed as compared with borrowing funds. Within the past several months Mr. Alfred Neal, president of the Committee for Economic Development told the House Small Business Committee that capital in the form of either equity capital or of long-term debt is required by growing businesses to finance investment in plant and equipment and for permanent expansion of working capital.

The Assistant Secretary of Commerce also testified before the House Small Business Committee recently. He stated that the greatest problem facing small business in their financing requirements is long-term money, that is, anything longer than what we ordinarily know as commercial banking. He continued his testimony by asserting that in his opinion well-organized companies with good earnings have little difficulty in getting short-term financing, but that all of them have trouble getting long-term financing.

A representative of the American Bankers Association told the House Small Business Committee that the banks are not set up—they are not capitalized—they are not organized for the purpose of providing equity capital and they certainly are not organized for the purpose of providing long-term loans.

It is thus made clear that in enacting the Small Business Investment Act of 1958, the Congress is not creating a Government agency that will compete against existing private lending institutions. Indeed, it is in reflection of the fact that privately owned sources of credit are not available for use by small-business concerns in obtaining long-term loans and equity capital, that the need for this legislation has arisen. The problem is one which the Congress must solve.

We are all aware of the substantial increase in population that our country has enjoyed since the end of World War II. We are also aware of the radical changes that have occurred in the economy of our country. We have witnessed wave after wave of corporate mergers leading to a dangerously high degree of concentration in many industries. We have watched the growth and application of modern merchandising methods, the successful creation of suburban community shopping centers, giant chain organizations, supermarkets, and other changes demonstrating the dynamics of the modern businessman serving the consumer's needs today.

If the small merchant is to continue to constitute an important competitive factor in our economy, he must keep pace with the modern tempo. He must replace obsolete fixtures and equipment. He must be able to participate in, and be included among, those companies comprising the suburban shopping centers. He must offer services commensurate with the supermarkets. In short, he must modernize, be aggressive and effective in his overall merchandising operations. It costs money to keep pace with such a program and this kind of money cannot be obtained by the small businessman by going to his local banker and borrowing money for 90 days. He must be able to obtain money on a long-term basis. But today there are virtually no sources to which he can turn for such assistance.

His giant competitors, the large chain stores, experience no difficulty in obtaining long-term loans or equity capital and it is this discrimination that exists between these two classes of merchants that must be eliminated, lest the small businessman himself be eliminated.

There is a consistency in the evidence showing that the legislation being considered today must be enacted today because time is running out. Every Member of this House is fully aware of the frightening rate at which business failures are occurring and have occurred during the past year. And we all know that it is our small business firms that account for the vast majority of these failures. These days no one ever hears of a big business concern becoming bankrupt. It follows therefore that our consideration of this bill is especially timely

and it also follows that no delay in passing this bill can be tolerated. We have waited long enough. We must act now.

It might be that some of the Members feel that the Congress, in creating the Small Business Administration, took all the action that was necessary in order to supply small business with appropriate financial assistance, but such is not the case. It is my opinion that Congress acted wisely in creating that agency and we now know that its operations have proved to be of inestimable value to the small businessman. I always favored legislation designed to make it a permanent agency and it is heartening to know that recent congressional action has now made it permanent, but as set forth in the report of the House Banking and Currency Committee pertaining to the Small Business Investment Act of 1958, the business loan program of the SBA is limited to providing short-term and intermediate-term credit. Its program does not include, and indeed it is not authorized to provide, equity financing. The Federal Government at this time has no program which would make available long-term loans or equity capital to small business.

The legislation being considered today will create an additional activity of the Federal Government but this fact need provide no reluctance upon the part of any Member to embrace its provisions. The services rendered by our Government to its people cannot remain static. Like our economy it must keep pace with the times and must be reflective of the needs and demands of the people. If the enactment of this measure is considered to constitute bold action by the Congress, let me remind you that some degree of boldness is necessarily associated with all progressive legislation. The Small Business Investment Act of 1958 is progressive legislation but this time, even though we are pioneering we have the benefit of an abundance of competent, trustworthy evidence which supplies complete justification for our action. All of the Governors of the Federal Reserve Board have announced their approval of the principle of this bill. They have advocated action by the Government to fill in this gap in the financial lending structure of our country's economy.

As pointed out by the report of the House Banking and Currency Committee, the Small Business Investment Act of 1958 will create—not a new agency, but merely a new division within the present Small Business Administration. This Division will be semi-autonomous in nature and permitted to devote its undivided attention to this specific problem. The existing revolving fund of that agency will be increased by $250 million which increment will be earmarked to carry out the provisions of the act.

The bill provides for the creation of small business investment companies chartered and approved by the SBA. These small business investment companies must have paid in capital and surplus before commencing business of at least $300,000 of which $150,000 may be advanced by the SBA through the purchase of debentures of the investment company. National banks become authorized to purchase stocks in these companies.

The Small Business Administration will lend money to these small investment companies to augment the funds obtained by these companies from private sources.

It is the small-business investment companies that will loan the money to the small-business concerns. In return they will receive convertible debentures of the small firm. Other safeguards are provided which appropriately protect the Government's interest and assure recovery of the money advanced.

Before a small-business company may obtain such assistance, it must purchase stock in the investment company in an amount ranging from 2 to 5 percent of the amount of the capital provided, thereby building up the investment of private funds which ultimately will permit Federal participation to disappear.

The Small Business Administration is authorized to lend money to State-chartered companies that would operate as small-business companies under the act. At this time about half of the 48 States, or I should say 49, now have or are about to have State development companies.

The small-business companies benefitted by this measure may be either incorporated or unincorporated, and the loans granted to them need not be repaid until the expiration of 20 years. This term may be extended for 10 additional years by the investment company.

The Small Investment Act of 1958 is a good bill. It reflects a tremendous amount of study and investigation. It deals squarely with an important but wholly unresolved problem confronting the 4½ million small-business concerns doing business in our country. In some respects, it may be argued that the provisions of the bill are too conservative in that the funds made available to the SBA for this purpose are inadequate. Moreover, it might have been better if a separate agency was formed to administer its provisions, but time does not permit further vacillation. The objectionable features of the bill are outweighed by its many advantages. Time and experience will demonstrate the effectiveness of this measure, which in turn will permit the Congress to bring about improvements and perfections in the law. As presently constituted, the measure is constructive and progressive because it will strengthen the competitive capacity of the small-business man. It will, therefore, improve the health of our entire economy. It provides for appropriate safeguards to protect the money invested by the Government. It is in the public interest; it is good legislation. It merits favorable consideration by every Member of this House.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HOLIFIELD].

(Mr. HOLIFIELD asked and was given permission to revise and extend his remarks.)

Mr. HOLIFIELD. Mr. Chairman, I am very happy to see this bill brought to the floor by the great Committee on Banking and Currency, and I am certainly 100 percent in support of it.

I listened with some amazement a few minutes ago to the gentleman from Texas [Mr. ALGER] when he made the statement that he opposed this bill, in view of the fact that this bill does not offer subsidies to small business, but merely offers a service, a loan service, in which the Federal Government participates only to the extent of making a certain amount of credit available to an investment company organized under State or Federal charter.

I think it is about time we do something for small business. I have been a small-business man since the time I was 16 years of age. I have been engaged in my own business and I know something about the problems of small business in getting financing. When I think of the subsidies that are being extended to big business operators in this Nation, I say that this bill is a very modest attempt to give some service and not some subsidy to small-business men.

I only have to call your attention to the fact that in the past few years we have granted $32 billion—and I use the word "billion," not "million"—worth of tax amortization to the big corporations, allowing them to write off out of their profits their capital investment over a period of 5, 7, or 8 years. Small business had no such opportunity.

I point out to you the subsidies that we have given to the airlines in actual cash, subsidies for operating expenses and subsidies we continue to give them in the way of certain types of navigational service from Government-supported institutions.

I point out to you the subsidies that we give to the merchant marine. We have just authorized some $60 million recently for the building of a great liner for the private shipping interests on the theoretical assumption that we might be able to use this ship some time in war.

I could go on down the line and refer to the guaranties that we give to the building industry and those people under the FHA and the Veterans' Administration housing program. The list is limitless of the aid and assistance and subsidies we have given to big business.

We now offer a modest and small program to give a few small-business men—I fear there will be too few who will qualify—an opportunity to borrow on their own equities over a longer term than they can get from commercial banks and we find Members who come down into the well of the House and decry the action of the committee in furnishing this modest service to small business.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Washington.

Mr. WESTLAND. I have been a strong supporter of SBA. I think it has done a fine job in my own congressional district. Most of the talk I have heard here this afternoon has been in terms of minimums, in other words $150,000 must be raised by the local interests and you get the other $150,000 from the Federal

Government. I guess you can get another $150,000 after that. But I see nothing in here about the maximum. I would be interested to know whether or not a small-business investment corporation, for example, could set itself up as a $10 million concern, and I suppose they could get $5 million from the Federal Government, and maybe they could get still another $5 million.

Mr. HOLIFIELD. I will ask the gentleman to direct that question to the committee.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Texas.

Mr. PATMAN. It is limited to $250,000.

Mr. HOLIFIELD. That is to the individual borrower?

Mr. PATMAN. That is $250 million overall. Divided up that means about $83,000 per county in the United States, which is entirely too small.

Mr. HOLIFIELD. And the limit is $250,000 to 1 borrower.

Mr. PATMAN. That is identifiable.

Mr. HOLIFIELD. One identifiable small business borrower.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Washington.

Mr. WESTLAND. I would like to get this cleared up if the gentleman will listen a little further.

Mr. HOLIFIELD. I was fortunate enough to get only 5 minutes.

Mr. WESTLAND. I will delay my question and will get it over on this side.

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Connecticut.

Mr. SEELY-BROWN. I believe I can answer the question that the gentleman raised about the $10 million. Let us take a $10 million corporation. One hundred and fifty thousand dollars would have to be provided, and the private investors would put up the $10 million. You add the two figures together and divide and you will find the amount that the SBA can loan.

Mr. WESTLAND. That is not an answer to my question.

Mr. HOLIFIELD. Mr. Chairman, I appreciate the work the committee has done on this. I am going to support the committee on this bill, and I am going to vote against any amendments that may be offered to the bill. I have read it, and I think this is a long, overdue and belated effort on the part of the Congress to give the little fellow a chance to obtain some service as a result of Government credit.

Mr. SPENCE. We have no more requests for time, Mr. Chairman.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc.,

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Short title

SEC. 101. This act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

TABLE OF CONTENTS

Title I—Short title, statement of policy and definitions

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

Title II—Small business investment division of the Small Business Administration

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision of funds.
Sec. 203. Purposes of revolving fund.

Title III—Small business investment companies

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this act.

Title IV—Conversion of State chartered investment companies and State development companies

Title V—Loans to State and local development companies

Title VI—Changes in Federal Reserve authority

Sec. 601. Repeal of section 13b of Federal Reserve Act.
Sec. 602. Fund for management counseling.

Title VII—Criminal penalties

Statement of policy

SEC. 102. It is declared to be the policy of the Congress and the purpose of this act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

Definitions

SEC. 103. (a) As used in this act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the term "company" means a small business investment company organized as provided in title III;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term "small-business concern" shall have the same meaning as in the Small Business Act of 1953;

(6) the term "investment companies" means investment companies as defined in section 3 of the Investment Company Act of 1940 which are subject to the provisions of that act; and

(7) the term "State and local development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II. SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Establishment of Small Business Investment Division

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by a Deputy Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be exercised by him through the Deputy Administrator appointed hereunder. In the performance of, and with respect to the functions, powers, and duties vested by this act, the Administrator and the Administration shall (in addition to any authority otherwise vested by this act) have the functions, powers, and duties set forth in the Small Business Act of 1953, and the provisions of sections 209 and 219 of that act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this act.

Provision of funds

SEC. 202. (a) In order to finance activities as provided in section 203, the Administration is authorized and empowered to issue to the Secretary of the Treasury notes and other obligations in an amount not exceeding $250 million outstanding at any one time: *Provided,* That the total amount of such notes and other obligations which may be outstanding during the first year after enactment shall not exceed $50 million and during the second year after enactment shall not exceed $150 million. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Administration, with the approval of the Secretary of the Treasury. Such notes and other obligations shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of such notes and other obligations. The Secretary of the Treasury is authorized to purchase any notes and other obligations of the Administration issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes and other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes and other obligations shall be treated as public debt transactions of the United States.

(b) Funds borrowed under this section and any proceeds therefrom shall constitute a revolving fund which may be used by the Administration in the exercise of its functions under this act.

(c) There are hereby authorized to be appropriated such sums as may be necessary

and appropriate for the administrative expenses of the Administration.

Purposes of revolving fund

SEC. 203. The Administration is authorized to use its revolving fund—

(1) to purchase the subordinated debentures of small business investment companies as provided in section 302;

(2) to make loans to small business investment companies as provided in section 303; and

(3) to make loans to State and local development companies as provided in sections 501 and 502.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Organization of small business investment companies

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided,* That no such company shall be chartered under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion approve the articles of incorporation and issue a permit to begin business.

(d) Upon issuance of such permit, the company shall become and be a body corporate, and as such, and in the name designated in its articles shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of 30 years, unless extended as provided in section 309 (f), or unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress, or unless its franchise becomes forfeited by some violation of law or regulation issued hereunder;

(3) to make contracts;

(4) to sue and be sued, complain, and defend in any court of law or equity;

(5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;

(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;

(7) to establish branch offices or agencies subject to the approval of the Administration;

(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;

(9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;

(10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and

(11) to exercise the other powers set forth in this act and such incidental powers as may reasonably be necessary to carry on the business for which the company is established.

(e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stock of the company.

Capital stock and subordinated debentures

SEC. 302. (a) Each company organized under this act shall have a paid-in capital and surplus equal to at least $300,000 before it shall commence business. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to but not more than $150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deemed a part of the capital and surplus of such companies for purposes of this section and sections 303 (b) and 306 of this act.

(b) The shares of stock in any small business investment company shall be eligible for purchase by member banks of the Federal Reserve System, nonmember insured banks, financial institutions, insurance companies, corporations, partnerships, or other persons. In no event shall any member bank of the Federal Reserve System or any nonmember insured bank hold such shares in small business investment companies in an amount aggregating more than 1 percent of the capital and surplus of such bank.

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

Borrowing power

SEC. 303. (a) Each small business investment company shall have authority to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and subject to such limitations and regulations as the Administration may prescribe.

(b) To encourage the formation and growth of small business investment companies, the Administration is authorized to lend funds to such companies through the purchase of their obligations which shall bear interest at such rate, and contain such other terms, as the Administration may fix. The total amount of obligations purchased and outstanding at any one time by the Administration under this subsection in any one company shall not exceed 50 percent of the paid-in capital and surplus of such company.

Provision of equity capital for small-business concerns

SEC. 304. (a) It shall be a primary function of each small business investment company to provide a source of needed equity capital for small-business concerns in the manner and subject to the conditions described in this section.

(b) Capital shall be provided by a company to a small-business concern under this section only through the purchase of debenture bonds (of such concern) which shall—

(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration;

(2) be callable on any interest payment date, upon 3 month's notice, at par plus accrued interest; and

(3) be convertible at the option of the company, or a holder in due course, up to and including the effective date of any call by the issuer, into stock of the small-business concern at the sound book value of such stock determined at the time of the issuance of the debentures.

(c) Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator; except that the Administrator may by regulation permit any such concern to defer the purchase of such stock for a period of not to exceed 3 years.

Long-term loans to small-business concerns

SEC. 305. (a) Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.

(b) Loans made under this section may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis.

(c) The maximum rate of interest for the company's share of any loan made under this section shall be determined by the Administration.

(d) Any loan made under this section shall have a maturity not exceeding 20 years.

(e) Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

(f) Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding 10 years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

Aggregate limitations

SEC. 306. Without the approval of the Administration, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this act for any single enterprise shall not exceed 20 percent of the combined capital and surplus of such small business investment company authorized by this act.

Exemptions

SEC. 307. (a) Section 3 of the Securities Act of 1933, as amended (15 U. S. C. 77c), is hereby amended by inserting at the end thereof the following new subsection (c):

"(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that act, that the enforcement of this act with respect to such securities is not necessary in the public interest and for the protection of investors."

(b) Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd) is hereby amended by adding the following subsection (e):

"(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small-business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that act, that the enforcement of this act with respect to such securities is not necessary in the public interest and for the protection of investors."

(c) Section 18 of the Investment Company Act of 1940 (15 U. S. C. 80a) is amended by adding at the end thereof the following:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958."

Miscellaneous

SEC. 308. (a) Wherever practicable the operations of a small-business investment company, including the generations of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this act may be handled through such banks or other financial institutions on a fee basis. Any small-business investment company may receive fees for services rendered to banks or other financial institutions.

(b) Each small-business investment company may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any company organized under this act. Such companies may invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States.

(c) The Administration is authorized to prescribe regulations governing the operations of small-business investment companies, and to carry out the provisions of this act, in accordance with the purposes of this act. Each small-business investment company shall be subject to examinations made by direction of the Administration by examiners selected or approved by the Administration, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements.

(d) Should any small business investment company violate or fail to comply with any of the provisions of this act or of regulations prescribed hereunder, all of its rights, privileges, and franchises derived therefrom may thereby be forfeited. Before any such company shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of this act shall be determined and adjudged by a court of the United States of competent jurisdiction in a suit brought for that purpose in the district, Territory, or other place subject to the jurisdiction of the United States, in which the principal office of such company is located. Any such suit shall be brought by the United States at the instance of the Administration or the Attorney General.

(e) Whenever in the judgment of the Administration any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this act or of any regulation thereunder, the Administration may make application to the proper district court of the United States, or a United States court of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, or regulation, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

(f) Any small business investment company may at any time within the 2 years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than 30 years, and upon approval of the Administration, as provided in section 301 hereof, such company shall have its corporate existence extended for such approved period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an act of Congress, or unless its franchise becomes forfeited as herein provided.

(g) Nothing in this act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this act.

Approving State chartered companies for operations under this act

SEC. 309. Any investment company chartered under the laws of any State expressly for the purpose of operating under this act may with the approval of the Administrator be premitted to operate under the provisions of this act. Upon such approval, which shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies, such State investment company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this act for companies organized under section 301 as small business investment companies.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

SEC. 401. (a) Prior to July 1, 1961, any investment company or any State development company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such company, with the approval of the Administration, be converted into a small business investment company under this act; except that nothing contained herein shall be construed to supersede the laws of any State.

(b) In such case the articles of association and organization certificate may be executed by a majority of the directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment comany. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors, regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.

(c) When the Administration has given to such company a certificate that the provisions of this act have been complied with, such company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State and local development companies to assist in carrying out the purposes of this act; except that no such loan shall be made to any local development company after June 30, 1961. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State or local development company shall not exceed the total amount borrowed by it from all other sources.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion, or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $250,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or

amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding 10 years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed 10 years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

(6) No loan shall be made under this section to any local development company after June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Repeal of section 13b of the Federal Reserve Act

SEC. 601. Effective 1 year after the date of enactment of this act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under that section.

Fund for management counseling

SEC. 602. (a) Within 60 days after the enactment of this act, each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b or out of any agreement thereunder.

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 207 (c) of the Small Business Act of 1953. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act shall be covered into the Treasury as miscellaneous receipts.

(c) Section 207 of the Small Business Act of 1953 is amended by adding at the end thereof a new subsection as follows:

"(c) The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agricultural studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of subsection (b) (4) of this section by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only 1 such grant shall be made within any 1 State in any 1 year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958."

TITLE VII—CRIMINAL PENALTIES

SEC. 701. (a) The first paragraph of section 217 of title 18, United States Code, is amended by inserting after "farm credit examiner," the following: "or of any small business investment company."

(b) Section 218 of such title is amended by inserting after "National Agricultural Credit Corporations," the following: "or an examiner of small business investment companies."

SEC. 702. (a) The first paragraph of section 221 of title 18, United States Code, is amended by inserting after "United States," the following: "or a small business investment company."

(b) The second paragraph of such section 221 is amended by inserting after "Congress," the following: "or any small business investment company."

(c) The heading of such section 221 is amended by striking out "farm loan or land bank" and inserting in lieu thereof "farm loan, land bank, or small business."

(d) The table of sections for chapter 11 of such title 18 is amended by striking out "farm loan or land bank" in the reference to section 221 and inserting in lieu thereof "farm loan, land bank, or small business."

SEC. 703. Section 657 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company."

SEC. 704. Section 1006 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company."

SEC. 705. Section 1014 of title 18, United States Code, is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company."

Mr. SPENCE (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 1, lines 3 and 4, strike out "purpose" and insert "policy."

The committee amendment was agreed to.

The Clerk read as follows:

Page 2, strike out the table of contents and insert the following:

"TABLE OF CONTENTS

"Title I—Short title, statement of policy, and definitions

"Sec. 101. Short title.
"Sec. 102. Statement of policy.
"Sec. 103. Definitions.

"Title II—Small Business Investment Division of the Small Business Administration

"Sec. 201. Establishment of Small Business Investment Division.
"Sec. 202. Provision and purposes of funds.

"Title III—Small business investment companies

"Sec. 301. Organization of small business investment companies.
"Sec. 302. Capital stock and subordinated debentures.
"Sec. 303. Borrowing power.
"Sec. 304. Provision of equity capital for small-business concerns.
"Sec. 305. Long-term loans to small-business concerns.
"Sec. 306. Aggregate limitations.
"Sec. 307. Exemptions.
"Sec. 308. Miscellaneous.
"Sec. 309. Approving State chartered companies for operations under this act.

"Title IV—Conversion of State chartered investment companies and State development companies

"Title V—Loans to State and local development companies

"Title VI—Changes in Federal Reserve Authority

"Sec. 601. Repeal of section 13b of the Federal Reserve Act.
"Sec. 602. Transfer of funds.

"Title VII—Criminal penalties"

The committee amendment was agreed to.

The Clerk read as follows:

Page 4, line 18, strike out "(a)."

The committee amendment was agreed to.

The Clerk read as follows:

Page 4, strike out lines 23 and 24 and insert the following: "(3) the terms 'small-business investment company' and 'company' means a small-business investment company organized as provided in title III, including a State investment company which has obtained the approval of the Administrator to operate under the provisions of this act as provided in section 309 and a company converted into a small-business investment company under section 401 of this act."

Mr. HALLECK. Mr. Chairman, I offer a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HALLECK as a substitute for the committee amendment: On pages 4 and 5 delete subsection 103 (3) and insert in lieu thereof the following:

"(3) the terms 'small-business investment companies,' 'company,' 'small-business investment company,' and 'company organized under this act,' mean a small-business investment company or companies chartered under State laws for the purpose of operating under this act and authorized by the administration as provided in title III to operate under this act;"

Mr. HALLECK. Mr. Chairman, this is the amendment to which I have referred in previous statements principally in general debate on the bill.

Now, in simple terms here is the situation before us. The bill provides for Federal chartering by the Small Business Administration of small-business investment companies. There have been some suggestions made here trying to explain why that provision is in this bill by citing certain other situations, such as the chartering of national banks, as a precedent for this action.

To my mind, those arguments should not prevail. I do not think they are effective. But, be that as it may, the committee itself in its report undertook to justify the inclusion of this provision for Federal chartering for a period of 3 years on the presumption—and I say it is nothing more than a presumption—that State statutes now in existence are inadequate.

I read the resolution and the memorandum of the American Bar Association; the resolution adopted by the board of governors making the action the official action of that organization, stating that they had caused to be made through the American Bar Foundation a careful study of State statutes and they found that in every instance in the 48 States and in the Territories covered by this act these corporations can be organized in

the States under existing law. Now, I have asked the committee to name the single first State whose statute is inadequate.

That single first State has not yet been named.

I called the secretary of state of my State and he said, "Why, we have got ample authority and, what is more, we have the personnel on the job. We have the experience, the know-how. We can charter these profit corporations. You do not have to take that chartering down to Washington. Leave it back here in Indiana where we are prepared to take care of it."

Why should we ship this function to Washington where, without any question, as has been developed, you would have to put more personnel in the Small Business Administration to process these applications for incorporation? And if you were to incorporate them and properly process them then certainly you ought to make provision for the supervision of the operations of these corporations. The question is, Do you want to move that to Washington, or do you want to leave it in the States where there are ample facilities and there is ample authority to take care of the whole business?

The gentleman from Texas [Mr. PATMAN] sought to argue something here that I must say was slightly obscure to me, about how I was trying to set up some sort of a toll gate for the lawyers. I do not need to set up any toll gate for the lawyers. I take it, whether it is an Indiana lawyer or a Texas lawyer or a Washington, D. C., lawyer, you would have to get some lawyer to set up your articles of incorporation. If the gentleman wants to argue on that basis—and I say that it is not much of a basis to argue on—then those of us who are lawyers know that if a group in Indiana or in Texas or any other State wants to incorporate down here in Washington, you get your local lawyers and then you have got to come down here and get some Washington lawyers. And I have understood that Washington lawyers come pretty high. So I would not be surprised, if you want to protect the small-business man who is finally going to get one of these loans, if you want to keep down the overhead, let the incorporation be done in the States where the country lawyers will have a chance at some of the business.

After all, Mr. Chairman, as I said earlier, we talk about the preservation of the rights of the States, and we all protest that that is what we want to do. Then why go into a procedure that departs from the traditional constitutional practices of our Government from the first day of its beginning? Certainly here is one place where we can say, "Now, wait just a minute; there is ample authority in the States at the present time to take care of this." No one has established here that they cannot, and as long as that is the situation why resort to Federal charters?

Mr. SPENCE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment is based upon a presumption that we should not invade the States for these purposes: I am ardently in favor of States rights and have supported every measure I thought had that objective. But it seems to me that if we want control over these agencies we can get more effective control at the start by organizing them under the laws of the United States. It may take a long time to organize these investment companies under the laws of the States. But expeditious organization may be provided under the supervision of the Small Business Administration here.

I do not think that this could be called an invasion of States rights. The Government is taking no right away from the States. It is furnishing funds to the people of the States to the interest of the States. This is a pilot bill. It is experimental. It has not been tried before. It has every opportunity, it seems to me, to become a great institution for the benefit of the people who need it most. But certainly you cannot say we are invading States rights when the Federal Government is going into the States to help people, not to impose restrictions upon them, not to take away their rights, but to attempt to help them in their hours of distress.

Mr. Chairman, I hope the amendment will be defeated.

Mr. BOW. Mr. Chairman, I move to strike out the last word, and ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HALLECK. Mr. Chairman, will the gentleman yield so that I may make the very brief statement I did not have time to conclude when I had the floor a few moments ago?

Mr. BOW. I yield to the gentleman from Indiana.

Mr. HALLECK. May I point out, since several suggestions have been made to me that it may possibly develop, although I cannot see why it should in view of my information, that some State statutes would be inadequate, that there should be some saving language to meet that situation. All I should like to suggest at this point is that, since the language providing for Federal charters is in the Senate bill, if my amendment prevails the matter goes to conference, and in conference it could then be determined after careful study. It could be worked out in connection with the conference report so that we would not do violence to States' rights and certainly would not be shutting off any opportunities to small business.

Mr. BOW. I certainly agree with the gentleman.

I am glad the gentleman from Indiana has raised this question and offered his amendment because I am interested in this from the standpoint that I am a member of the subcommittee that handles appropriations for the Department of Commerce and also the Small Business Administration. I have been with those Members handling appropriations for some time. It has been our effort to keep the cost of administration down so that funds would be available to help small business.

It seems to me the question the gentleman from Indiana has raised here touches on three things we have been considering in this Congress for some time: First, the question of overlapping of facilities; second, the question of economy; and third, the question of States rights. I believe the gentleman's amendment reaches each one of these objectives.

If we have within the various States agencies now set up to do this job of incorporating these companies, then I can see no reason why we should appropriate funds to set up a new agency, a new Secretary of State within the Small Business Administration, to issue these charters. If we issue the charters there, then we are going to set up further bureaus and have further Federal employment to go out and police these corporations. I think that would be unnecessary. As a member of the Committee on Appropriations, I hope we will not have to do that.

There is the question of economy, too, of cutting down the cost of government. Let us cut the cost of government in Washington, particularly in those areas where the States are able to carry on, because if we reduce the cost of government in Washington then the day will eventually come when, in addition to giving this type of service, we will be able to give relief in the form of tax reduction. We cannot do it if we are continually raising the cost of government here in Washington. We have agencies in the States able to carry on. Why must we now say, "Bring it to Washington"?

Then there is the question of States rights. I have been for States rights, I will say to the distinguished gentleman from Kentucky, since I have been a Member of Congress, and I shall continue to be. Wherever the States can do these things they should be given the opportunity to do them. The gentleman has said we should bring this work down here so it can be done expeditiously. I do not know of a single function handled by the States that is performed more expeditiously when you bring it to Washington. It seems to me that when we bring these things to Washington we slow down the procedure, we increase ad infinitum the redtape that must be gone through. Give a Washington bureau the opportunity and they will block it for you. In the States it would be a very simple matter.

Mr. VORYS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield.

Mr. VORYS. It seems to me that the matter of policing by, for instance, the local courts, not merely as to the corporate reports but for instance as to legislation, would not these federally incorporated corporations always be able to claim diversity of citizenship?

Mr. BOW. Certainly. They would be in the Federal courts and then we would have to have more Federal judges and the whole thing, as I look at it, is just a new snowballing of Federal activities. We really now have the right within the State to do the job. Let us

keep it there and let us keep down the size of the job.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PATMAN. Mr. Chairman, I move to strike out the last word.

(Mr. PATMAN asked and was given permission to revise and extend his remarks.)

Mr. PATMAN. Mr. Chairman, the distinguished gentleman from Indiana has suggested that a District of Columbia lawyer would have to be employed. The Small Business Administration, under Mr. Wendell B. Barnes, has successfully decentralized a large part of its operations. Of course, that is the way it should be. There is no reason why small-business people should have to come to Washington on a matter of this kind.

Now, the amendment being offered is new. After we have spent weeks and months on this legislation, and after we have considered every word that is in the bill, some Member brings an amendment up on the floor of the House that we have not had a chance to study. We have not even considered this. We do not know what effect it will have on the rest of the bill. A Member presents and urges the adoption of a completely new amendment. I do not think that is fair to the committee. I think it should have been submitted to the committee and, if not submitted to the committee, then a copy of it should have been given to the majority Members, and to all Members, so that they could study it and know what they are voting on. I do not know who drew the amendment, but the language of this amendment is devastating. It will be devastating to New England. It will be devastating to New York. It will be devastating to North Carolina.

The few States that have adequate State development companies are now out in front. I congratulate them. I commend them. They have been working on this matter for years. They know what the score is. They have more to gain as of this moment by the passage of this bill than all the other States. They are way ahead of the other States in this field. They know what this legislation is and they know what it means. If this amendment is passed you jeopardize the existence of every one of these fine State development corporations. I do not believe you want to do that. Yet this is just a fair sample of what happens when you try to legislate on such an important matter here on the floor of the House, without giving these matters proper consideration before the committee that is holding hearings on the legislation. This would be a dangerous thing.

Section 3 of the bill, providing the definitions, is very carefully drawn. It is several lines long. It goes from line 25 on page 4 to line 7 on page 5. It refers to several sections of the bill, and it is very carefully drawn so as to protect the State development companies. It reconciles and coordinates every one of the sections of this bill. The gentleman from Indiana comes in and proposes to throw in the wastebasket everything that we did in that regard. Just throw it away and tear it up. Throw it out the window. Yet the gentleman did not have the benefit of the testimony of the witnesses, and I doubt if he has even read the hearings. One Member said, mistakenly, that there were no hearings on the bill. We had hearings for weeks on the bill. We could not be sure what we would be doing by adopting this amendment. But I know enough about it to know that it would be devastating to those States, 7 of them, 5 in New England and New York and North Carolina that now have State development corporations that can very quickly lend themselves to the provisions of this act and could operate on it quickly.

Mr. MEADER. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. MEADER. I ask the gentleman if development companies are not dealt with in another section and are not touched by the gentleman's amendment.

Mr. PATMAN. No; they are touched.

Mr. MEADER. Paragraph (6) at the bottom of page 5 refers to development companies. The gentleman's amendment related only to small business development companies.

Mr. PATMAN. Now, I am a member of the committee. I have worked on this for months. Every member of this committee has worked on it for months, and we know what all these sections mean. When we referred to 309, and that has not even been mentioned in the gentleman's amendment, we knew exactly why we put 309 in the bill. When we put section 401 in this act we knew why it was put in there. The gentleman's amendment does not even mention it.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. HALLECK. These development companies to which the gentleman refers have been organized under State laws, and they will continue to operate as they have in the past. Second, if my amendment is adopted, I have an amendment to subsequent sections of the bill that would bring the rest of the bill in line with what I have been arguing for.

Mr. PATMAN. Anyway, this is a very dangerous way to legislate. I have heard the gentleman make some mighty fine speeches about how dangerous it is to draft legislation on the floor of the House. I can hear him now objecting to drafting legislation the committee has not had an opportunity to study and consider. I can hear him now screaming out how dangerous it is to legislate on the floor. The committee has worked on this legislation for weeks and months.

I hope this amendment is defeated.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SHEEHAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. HALLECK].

In spite of the remarks of the gentleman from Texas [Mr. PATMAN], the gentleman from Indiana [Mr. HALLECK] served for a long number of years as a member of the Small Business Committee and should know enough about small business so that we cannot question his knowledge and his desire to help small business.

The gentleman from Kentucky [Mr. SPENCE] in his remarks said that we, meaning the chairman, himself, and his members want control over these investment companies. To my way of thinking, that is the last thing we want—Federal control over the investment companies.

Mr. COAD. Mr. Chairman, will the gentleman yield?

Mr. SHEEHAN. As soon as I finish, please.

Certainly the statement of the gentleman from Indiana [Mr. HALLECK] to the effect that he thinks it desirable that the control, if we must use the word, lies with the local people, and it is to my way of thinking the best possible answer that whatever control which is implied remains with the local people. As one Member who in my 8 years in Congress consistently supported States' rights legislation, I think this is basic States' rights legislation. As the gentleman from Indiana [Mr. HALLECK] has well said, if there is a question in the minds of the Members that some States might be deprived of benefits under this law because they are not able to qualify, the gentleman from Indiana certainly stated it well when he said in conference the bill can be fixed up so that those few States could be properly taken care of and would not be deprived of their rights.

It seems to me, from my own experience in the business world, that a businessman is much better off dealing with his local people than he is in dealing with people in Washington. I have had occasion, and I know many other Members have had occasion, when small-business men in their communities were not able to get proper cooperation from the local offices of the Small Business Administration, they had to come here to Washington and we as Members have had to help them get a proper audience so that their problems could be put before the proper official in Washington. The program of the gentleman from Indiana [Mr. HALLECK] and the gentleman who heads the Small Business Administration, Mr. Wendell Barnes, in getting this whole program down to the local level where it belongs.

Mr. COAD. Mr. Chairman, will the gentleman yield?

Mr. SHEEHAN. I yield.

Mr. COAD. Is not the gentleman confusing the fact of the issuance of charters with the regulation of the actual procedure of lending the money? You are talking about two different things; I think you have grouped them into one. On the one hand we have the actual chartering of the investment companies; and that, of course, under the provisions of this bill is under the direction and actual supervision of the SBA; they have to come up to certain standards.

Secondly, you are also including here the actual policing of the operation of lending the money. They should not be grouped together, in my opinion.

Mr. SHEEHAN. As I understand the gentleman from Indiana, in his explanation of the situation he wants to make

sure that all of these programs possible start at the local level and be kept at the local level, which means the lending of the money as well as the incorporation of the investment company.

Mr. COAD. Should not standards be set up?

Mr. SHEEHAN. Certainly standards should be set up, but the control should be at the local level.

I yield to the gentleman from Indiana.

Mr. HALLECK. Of course, the fact remains that the provision inserted by the committee is a 3-year provision. It contemplates that after 3 years presumably the States that are deficient can perfect their statutes and bring them in line; then the whole thing will operate not on Federal charters, but at the State level.

The point I want to make again is this: Certainly before the money is advanced certain regulations of the SBA would have to be complied with. But we all know that when corporations are chartered the State exercises a degree of control through State regulation of those corporations. Certainly they cannot regulate these federally incorporated organizations such as we are going to have here and certainly it would take an army of agents if the Federal Government is going to supervise this program, checking the operations of these companies.

Mr. SHEEHAN. I agree with the gentleman from Indiana, and I hope his amendment carries.

Mr. MULTER. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, the point the distinguished gentleman from Iowa tried to make was a very sound one. Much confusion has been injected into the debate because of failure to discriminate between the two things that are being done in this bill.

First we set up the small business investment companies.

Second, the small business investment companies will make loans or make the investment of the risk capital in small business concerns.

These are two distinct features and functions.

The gentleman from Indiana tells us that the differences can be ironed out in conference if his amendment is agreed to. I, for one, believe it is our duty to write legislation in the Chambers of the Congress and not in conference.

Conferees do important work in adjusting differences. It is our duty, however, to determine the principles.

Nothing in this bill preempts to the Federal Government the right to organize these companies. On the contrary, it puts both on an equal footing.

Under the bill, as reported by our committee, the State corporations, if such corporations can be organized, will be able to function side by side with the national corporations which receive a charter from the SBA.

To be sure that we do not invade States' rights we say in this bill in so many words, and I refer you to the language on page 24, lines 1 and 2 of section 401, which read:

Nothing contained herein shall be construed to supersede the laws of any State.

There is not any doubt, the way this this bill is set up, you will have your State corporations if the State law permits it, and you will have your national corporations if they can qualify.

But whether they be State or National they will have to comply with the rules and regulations as laid down by SBA under the authority of this bill. State and national corporations both will have to qualify and must come to Washington to get the Federal loans that are provided for by this bill, if they want such money. If we are not going to make the funds available to the small-business concerns in this manner, we do not need this bill. I suggest that this amendment should be defeated, that the bill is properly written to protect the States, State laws, and State lawyers. If the amendment is defeated the intent of the bill, which is very clear, can be carried out in accordance with the very specific language of the bill.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. MULTER. I yield to the gentleman from California.

Mr. HOSMER. The gentleman speaks of State and Federal corporations standing side by side in this field. I am wondering what the advantage is of having Federal corporations if their does in fact exist in a State the proper statutory situation for a State corporation to handle this?

Mr. MULTER. I do not concede that there is proper State statutory provisions in all States. This bill continues the dual banking system, and this is a banking function. Despite what the distinguished gentleman from Indiana has said, and I do not try to dispute what his State law may provide, there are many States, the gentleman from Texas named some of them, where you will not be able to qualify under State law as it exists today in order to get the benefits of this statute. It would be unfair to go on for 2 or 3 years in those States, having no means of qualifying in order to get this help until their State legislatures had acted. While this bill has a 3-year limitation on national charters, no one today has a right to say what the Congress will do 3 years hence. If this program works out we may continue the dual chartering. If it does not, we may let that function expire or we may amend it to make it more effective.

Mr. HOSMER. I will say to the gentleman I have not yet been convinced what the advantage is of the duality. When life is as complicated as it is for the businessman and his lawyer, it seems to me that we ought to encourage the elimination of complications.

Mr. MULTER. There is nothing complicated about this. If the dual system of banking is good for the credit unions and for the savings and loan associations and for the commercial banks, it is good for this important banking function, which provides for investments in small business companies.

Mr. PATMAN. The gentleman agrees, I am sure, that there is more involved than just the charter. This is a national credit policy that a State cannot effectively administer and enforce. It is a national policy. For that reason this bill should go through as it is proposed so that the States and the Federal Government can cooperate together, as he suggested with reference to credit unions, savings and loans associations, national savings and trust institutions and so forth.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. JONAS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time to ask the gentleman from Texas [Mr. PATMAN] a question. I heard the gentleman mention the State of North Carolina. I do not understand why he said this amendment would affect the situation that obtains in North Carolina where we have a development company now in existence.

Mr. PATMAN. I have a list of them. There are only seven in the United States.

Mr. JONAS. That is not the question.

Mr. PATMAN. I am getting down to that. Five of them are in New England, New York, and North Carolina. The way the amendment is written I am apprehensive that the language being used "expressly authorized or provided, under this act" will only apply to subsequent charters and not to existing charters. We were very careful in the writing of this language to make sure it refers to the different parts of the bill, to make sure that these State development corporations were taken care of because they have pioneered this field.

Mr. JONAS. Tell me how the amendment proposed by the gentleman from Indiana could possibly affect the North Carolina development corporation, because it is already in existence.

Mr. PATMAN. Any amendment you do not know anything about, you have to analyze and be careful.

Mr. JONAS. His amendment would encompass all State corporations?

Mr. PATMAN. You will see in the amendment that they must be organized expressly under this act.

Therefore, that jeopardizes existing corporate laws.

Mr. HALLECK. I am almost led to believe that it might be well to have a little more consideration of this bill. Actually there are other provisions in the bill that provide for the benefits of this legislation to go to existing corporations. What the gentleman from Texas refers to are existing operations, and they would not in any way be affected by this amendment. To say that he is apprehensive or to say that we do not know about it certainly is no proof of the statement he makes. As a matter of fact, again I say that the listing of those three States is not the listing of a single State that at the present time could not have corporations formed to take advantage of this act, and no one has been able to answer that.

Mr. JONAS. Mr. Chairman, frankly I would like to have the amendment read again.

Mr. PATMAN. I have it here. I can read it.

Mr. JONAS. Because we do have a development corporation in my State, and I certainly would not want to parti-

cipate in any amendment that would affect it adversely.

Mr. PATMAN. This amendment reads:

The terms "small-business investment companies," "company," "small-business investment company" and "company organized under this act" mean a small-business investment company or companies chartered under State laws for the purpose of operating under this act and authorized by the administration, as provided in title III, to operate under this act.

It does not have the safeguarding language that our amendment has that was written by the committee after careful and deliberate consideration over 2 weeks of time.

Mr. JONAS. There is no safeguarding of corporations authorized under Federal law now.

Mr. PATMAN. This says "organized under this act."

Mr. HALLECK. Mr. Chairman, will the gentleman yield further?

Mr. JONAS. I yield.

Mr. HALLECK. I am quite sure that articulate and persuasive as is the gentleman from Texas, he is not going to confuse this issue quite as much as he thinks he is. Actually, the language of my amendment follows the precedent of the committee language except it provides for State charters for these corporations instead of Federal charters. That is all in the world it does. Again I say that the committee itself must have recognized the validity of State charters, because they say that after 3 years we will have it all State charters and you will not have Federal charters. If that is true, why have Federal charters at this time?

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I yield to the gentleman from Connecticut.

Mr. SEELY-BROWN. It is my understanding, in answer to the question the gentleman has raised, on page 25 of the bill, title V provides for loans to State and local development companies, and that is completely different than the question we have been arguing here regarding the chartering of small-business investment companies. In other words, as I understand the situation in North Carolina, you are concerned, as I am in Connecticut, where we have loan development credit corporations. Those corporations are taken care of under title V, as I understand it. Is that not correct, may I ask the gentleman from Texas?

Mr. PATMAN. Yes, but the preamble to title V is over in the definitions that the gentleman from Indiana seeks to strike out.

Mr. JONAS. As I understand the gentleman's amendment, it does not touch the provision on line 19, page 5, does it?

Mr. HALLECK. Of course not. It does not interfere with the definition. This is merely substitute language for the committee amendment.

Mr. HOLIFIELD. Mr. Chairman, I move to strike out the last word.

Well, now, I am concerned about the language of the substitute offered by the gentleman from Indiana. I have it here in my hand, and I am going to read it again, because I think the gentleman from North Carolina should be very careful today how he votes on this particular amendment, and I will be careful, because we have some investment companies in my State. Here is the language:

The terms "small business investment companies," "company," "small business investment company" and "company organized under this act" mean a small business investment company or companies chartered under State laws for the purpose of operating under this act and authorized by the administration, as provided in title III, to operate under this act.

Now, was your company in North Carolina organized for the purpose of operating under this act?

Mr. JONAS. Not under this act, but that amendment does not go to the rest of the section beginning on line 19. That is a different definition.

Mr. HOLIFIELD. It would mean nothing to any company that is organized in his State, because it says "chartered under State laws for the purpose of operating under this act," and therefore it looks to the future and not to the past.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I am glad to yield, because I am confused on this myself.

Mr. HALLECK. Well, I am not a bit confused. It is obvious that the definition that the committee seeks to put in the bill, the definition that I would substitute, contemplates small business investment companies to be organized here to take advantage of this act.

Mr. HOLIFIELD. What about those that are already organized?

Mr. HALLECK. There are others already organized, and the bill in specific terms, which terms could not be changed by any definition as a straight matter of legal interpretation and legislative effort—those other provisions clearly point to the fact that existing development companies are permitted to take advantage of the provisions of this act.

Mr. SEELY-BROWN. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Connecticut.

Mr. SEELY-BROWN. Mr. Chairman, I think the real answer to the gentleman's question will be found on page 25 of the bill—title V—Loans to State and Local Development Companies.

As I understand this legislation we are referring there to the ability of the administration to make loans to the State development companies that are already in existence, such as the one in North Carolina, such as the one in my State, to carry forward the purpose of the act. And we spell out that language in section 501. As I understand it, the amendment offered by the gentleman from Indiana [Mr. HALLECK] does not apply to a local development company. It applies only to a small business investment company, which is different.

Mr. HOLIFIELD. Will not the gentleman agree with me that under section 309 any of these investment companies chartered under the law of a State expressly for the purpose of operating under this act may be permitted; and in section 401 any State development company may by a vote of 51 percent of the shareholders change over into this type of organization. But until that changeover, is it not true that they are not allowed to participate?

Mr. SEELY-BROWN. No, because under the terms of this bill—and the gentleman will correct me if I am wrong—the State development corporation may borrow money and still remain a State development corporation. It does not have to become a small business investment company in order to borrow money. It may borrow money directly and maintain its original entity; is not that correct?

Mr. MULTER. If the gentleman will yield to me, I think that is correct.

Mr. SEELY-BROWN. That is certainly my understanding.

Mr. MULTER. If the gentleman will yield further, I think we ought not to confuse the loans to development corporations with the loans to small business investment companies.

Mr. SEELY-BROWN. That is right.

Mr. MULTER. The gentleman from Connecticut [Mr. SEELY-BROWN] is quite right. In those States where there are development companies, they are ready to go in, if this act is passed, and ask the Small Business Administration to lend them some money. The difficulty is that without the provision for national charters, they will be put in a favored or a preferential position as against these small business investment companies. There are many State law restrictions now in existence that can be immediately overcome by the provisions in this bill so that all these companies State and Federal can operate on an equal footing.

The CHAIRMAN. The time of the gentleman from California [Mr. HOLIFIELD] has expired.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I want to say that I am going to support the amendment offered by the gentleman from Indiana [Mr. HALLECK]. However, I should like to be certain that a Federal charter would be available in any State where the State laws would not authorize the incorporation of a small-business investment company for the purposes indicated in this bill. In the event that the amendment of the gentleman from Indiana [Mr. HALLECK] would prevail, I believe an amendment should then be made to title III which should read something like this:

In the event that under the laws of any State or States a small-business investment company cannot be chartered so as to qualify for operation under this act, then investment companies formed in such State or States may be chartered under this title.

The CHAIRMAN. The question is on the substitute to the committee amendment offered by the gentleman from Indiana [Mr. HALLECK].

The question was taken; and on a division (demanded by Mr. PATMAN) there were—ayes 105, noes 44.

So the substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is now on the committee amendment as amended by the substitute.

The committee amendment as amended was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 5, line 13, strike out "of 1953."

Mr. PATMAN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I had intended to offer an amendment to strike out the limitation of 3 years, but in view of the fact we want just as few amendments as possible on this bill, I will not offer the amendment because we can, a year from now or 2 years from now, after we have had experience under this act, move to change it if we desire to do so.

I think this is a good bill. It is intended to help small business in an area where it cannot get accommodations now. The bankers testified before our Committee on Small Business last year to the effect that there is a vacuum in our national financial machinery, so much so that small and independent businesses cannot get equity financing or long-term loans. For the first time in history a bill is brought before Congress with overwhelming proof to that effect. Heretofore the proposition has been questioned; heretofore it has been in doubt. Members would argue that the banks could do this, that there are plenty of facilities now to make the proper long-term loans or equity financing available to small business, but no longer is that argument made. It is undisputed that there is no financial institution in America today that is authorized to do business that will fill the vacuum that this particular bill fills.

I know the bill is weak in some respects. The amount of money itself, $250 million, is not as strong as we should like it to be. If you divide $250 million by 3,070 counties you will find it is only $83,000 per county. It is a very small amount. But this is a right step in the right direction, although a short step.

I think we should have some experience under this bill. I have a feeling it will be sympathetically administered, because the Small Business Administration has become increasingly important and has become better administered every day, I think, that it has been administered.

I will concede that the Small Business Administration did not have precedents to follow in every instance, and it had to plow new ground. It was pioneering in many fields. But I think now it is making fine and rapid progress. I believe the Small Business Administration under Mr. Barnes, administrator, will administer this law sympathetically. I believe that there will be a demand and a need, particularly if this depression continues, for its enlargement in the future to serve more independent businesses. I know the committee and the Congress today are more conscious of the needs of small business than ever before. Only in recent years have we had small business committees to alert the country to the needs and special problems of small business. But, now we not only have small business committees in the House and in the Senate, but every agency of our Government that has to do with business generally has a small business division. I think that is due to the fact that we started here in the House of Representatives many years ago. The gentleman from Indiana [Mr. HALLECK] had a great deal to do with it. I also worked in that direction. In 1941, we set up the first small business committee, 7 days before Pearl Harbor. The committee was appointed by the Speaker of the House, Honorable Sam Rayburn. That was the first small business committee in the House of Representatives. I feel that great progress has been made and that great progress is being made here in this bill. I hope we do not have many amendments, or at least not major amendments, and that we can get this bill through as quickly as possible, so as to get it upon the statute books and get the organization going.

Mr. HALLECK. Mr. Chairman, I have sent a number of perfecting amendments to the desk and I ask that they be considered en bloc.

The CHAIRMAN. Is it to the pending amendment which is on page 5, line 13, to strike out "of 1953"?

Mr. HALLECK. No; it does not refer specifically to that, Mr. Chairman. It refers to the different sections in the bill, for the purpose of bringing subsequent sections in line with the amendment that has just been adopted.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 5, insert "and" after the semicolon in line 13; strike out lines 14 through 17; and strike out "(7)" and insert "(6)" in line 18.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 5, line 18, strike out "State and local."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 6, line 22, strike out "of 1953."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 6, line 22, strike out "209 and 210" and insert "13 and 16."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

10. Page 6, after the period in line 25, add the following new sentence: "Subject to the standards and procedures under section 505 of the Classification Act of 1949, as amended, not to exceed three positions in the Small Business Investment Division of the Administration may be placed in grades 16, 17, and 18 of the general schedule established by that act, and any such positions shall be additional to the number authorized by such section or otherwise."

Mr. DAVIS of Georgia. Mr. Chairman, I make a point of order against the committee amendment and reserve the point of order and move to strike out the last word.

The CHAIRMAN. The gentleman from Georgia is recognized.

Mr. DAVIS of Georgia. Mr. Chairman, this committee amendment would provide for three positions in grades 16, 17 and 18 which are known as super-grade positions. The jurisdiction of this question properly comes under the House Post Office and Civil Service Committee. In the bill, S. 734, the classified civil service employees salary bill, which was just recently passed, there were provided 277 additional super-grade positions to be allocated among the Government agencies by the Civil Service Commission. Also the Post Office and Civil Service Committee of the House, through its Manpower Utilization Subcommittee, held 8 hearings in May and June on the subject of super-grades and invited the various Government agencies to come in and justify their requests for additional super-grade positions. That committee now is in the process of evaluating that testimony for the purpose of introducing legislation for such additional super-grade positions as have been justified. This agency first should apply to the Civil Service Commission for such additional super-grades as it needs, to be allowed from the recently authorized 277 new super-grade positions. The Civil Service Commission advised us today that they have notified all Government agencies to apply for critical needs for super-grade positions and to have their applications in by August 1. That affords relief if it can be granted under that provision. Also, they could justify to the House Post Office and Civil Service Committee these new positions, if they are justifiable, and that committee will give them relief if they justify the request. I have discussed this with the chairman and he is agreeable for the amendment to go out.

Mr. SPENCE. Under the circumstances, we concede the point of order.

Mr. PATMAN. Mr. Chairman, we have got to have something in here to administer this act. We are setting up a separate division in the Small Business Administration. I hope the gentleman will let it go through. It will be in conference, and then we can talk with the Senators; but to strike it out, it goes to the very heart of this bill.

Mr. DAVIS of Georgia. I have discussed it with the chairman and he has agreed that it would go out under the statement I have made.

Mr. PATMAN. But we have to have a separate proposition to properly administer it.

Mr. DAVIS of Georgia. The Civil Service Commission now has 277 new super-grade positions to allocate.

Mr. PATMAN. But it will require this language to administer it.

The CHAIRMAN (Mr. WALTER). The Chair understands the gentleman from Kentucky [Mr. SPENCE] asked unanimous consent that the language contained at the bottom of page 6, line 25, through line 6 on page 7 be stricken from the bill.

Mr. DAVIS of Georgia. That is correct.

Mr. PATMAN. Reserving the right to object, the reason we put that in there is because we hope we are nearing the end of the session. The Senate did not have a similar provision in the bill. We wanted to provide for the administration of this important law. If we strike this out, how will it be administered? We have set up a division, and we must provide for some help.

The CHAIRMAN. The Chair is more interested in knowing what the gentleman's argument is against the point of order.

Mr. PATMAN. The Chairman has agreed to it, so I shall not object.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky that the amendment be withdrawn?

There was no objection.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 7, line 7, strike out the balance of page 7, page 8, down to and including line 6 on page 9, and insert:

"PROVISION AND PURPOSES OF FUNDS

"SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

"(1) by striking out '$650,000,000' each place it appears and inserting in lieu thereof '$900,000,000';

"(2) by inserting before the period at the end of the fourth sentence the following: ', and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958'; and

"(3) by inserting after the seventh sentence the following new sentence: 'Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958.'

"(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this act."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. SPENCE. Mr. Chairman, I ask unanimous consent that the remaining committee amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The Clerk will report the remaining committee amendments.

The Clerk read as follows:

Page 11, line 17, strike out "309 (f)" and insert "308 (f)."

Page 13, strike out line 20 and all that follows down through page 14, line 3, and insert the following:

"(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus."

Page 16, strike out the semicolon in line 19 and all that follows down through line 22, and insert a period.

Page 17, after the period in line 8, add the following new sentence: "In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement."

Page 19, line 11, strike out "80a" and insert "80a–18."

Page 25, in the sentence beginning in line 6, strike out "and local", and strike out the semicolon and all that follows and insert a period.

Page 25, line 19, strike out "or local."

Page 25, after the period in line 21, add the following new sentence: "Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this act, regardless of sourse, which have the highest priority, except when this requirement is waived by the Administrator."

Page 28, line 3, strike out "Fund for Management Counseling" and insert "Transfer of Funds."

Page 28, strike out lines 14 through 20 and insert the following:

"(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into the Treasury as miscellaneous receipts."

Page 28, strike out line 24 and all that follows down through page 29, line 19.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. HALLECK. Mr. Chairman, I have a series of amendments at the desk bringing the bill in line with the amendments already adopted. I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read as follows:

On page 10, line 3, delete the word "Organization" from the subtitle to section 301, and insert in lieu thereof, the word "Qualification."

On page 10, delete subsection 301 (a) (lines 5 through 10) and insert in lieu thereof, the following:

"SEC. 301. (a) Small business investment companies formed by any number of persons, not less than 10, chartered under State laws for the purpose of operating under this act, may be authorized by the Administration to operate under this act."

On page 10, delete the last sentence of subsection 301 (b) beginning in line 20.

On pages 10 and 11, delete all of subsection 301 (c) and the initial portion of subsection 301 (d) to and including subparagraph "(2)" thereof; and insert in lieu thereof, the following:

"(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration. In determining whether to authorize such a company to operate under this act, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion grant authority to such a company to operate under this act.

"(d) Prior to the grant of such authority, the company must have power—

"(1) to adopt and use a corporate seal;

"(2) to have succession for a period of 30 years."

On page 13, delete subsection 301 (e) in lines 1 through 4.

On page 13, line 6, strike out "organized" and insert "authorized to operate."

On page 13, line 8, strike out "before it shall commence business."

On page 21, delete from lines 12 and 13, in the second sentence of subsection 308 (d), the following words and punctuation: "company shall be declared dissolved, or its rights, privileges, and franchises forfeited,"; and insert in lieu thereof, the following word and punctuation: "forfeiture,".

On page 22, delete subsection 308 (f).

On page 23, delete section 309, including its subtitle.

On pages 23, 24, and 25, delete all of title IV and renumber the succeeding titles and sections accordingly.

Mr. HALLECK. Mr. Chairman, first of all I would like to say to my very good friend from Texas [Mr. PATMAN] that I well recall those earlier years when we served together on the Small Business Committee of the House of Representatives. He has always been a stalwart champion of small business, as I have sought to be also a stalwart champion of small business.

I said earlier in the discussion on the rule and in general debate on the bill, and in my statement on the amendment, that I intended to support the rule and the bill. I have been asked by a number of Members from my State about my personal position. I want all of them to understand that I shall vote for the bill. I do not know how effective the measure will be. Certainly it offers great promise. I have some concern about entering this new field as a Federal endeavor, at least through the use of Federal credit; but I certainly express the hope that the bill will be effective for the purposes and objectives for which it is created.

I would like to say one thing further. The gentleman from Michigan spoke of an amendment that he expected to offer that would undertake to provide that if there is any deficiency in any existing State law, and I say there has been no evidence that there is any, the Federal charter provision would operate. He has come to the conclusion, in view of the general tenor of the bill, that his amendment would not add substantially but probably would only confuse the general issue. As I have said, undoubtedly this matter will go to conference. In the meantime, if anyone wants to develop any more accurate or definite information as to any State deficiency, certainly they will have that opportunity; but at this point I am convinced this careful study made by the American Bar Association is correct, that the existing laws in the various States are completely adequate.

The amendment I have offered is simply designed to bring the rest of the bill

in line with the amendment previously adopted, which provides for the State chartering of these companies rather than for Federal chartering.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from Indiana [Mr. HALLECK].

Mr. Chairman, I know that the gentleman from Indiana is sincere in what he says and that he believes these are implementing amendments. Incidentally, there are 17 of them. It rewrites the bill fully and completely.

Naturally, this bill must go to conference now, because we cannot run the risk of adopting 17 substantive amendments, in addition to the one that has already been adopted, without sending the bill to conference to make sure of what we are doing. We do not know what we are doing here. I know that the gentleman from Indiana is sincere, I repeat, and I will take his word for the fact they are just implementing amendments; therefore, I will not resist them further but depend upon the conferees to iron out the changes.

I hope that the bill will pass without any further amendment, to the end that we can very quickly get a conference agreed upon between the two Houses and get the differences ironed out and get this bill, which is a good step in the right direction, started on its way.

Mr. MULTER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have followed very carefully the reading of the amendments just offered by the gentleman from Indiana, and while I, too, join with the gentleman from Texas [Mr. PATMAN] in endorsing the sincerity of the gentleman from Indiana in offering the amendments, I suggest to the Committee of the Whole that the adoption of these amendments guts the bill. If the bill is enacted in this form, it will do very little, if anything, for small business. These amendments, together with the one offered by him and already adopted eliminates one of the very important features of the bill. Such action by us will put in a preferred position, the few State development corporations now operating and, at the same time, keep out the private investors this bill sought to interest in this program.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Indiana [Mr. HALLECK].

The amendments were agreed to.

Mr. MULTER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have three amendments at the desk which I intended to offer. I am not going to offer them. I ask unanimous consent that I may revise and extend my remarks, at which time I will incorporate the amendments in my remarks.

The reason I am not offering them is because I am firmly of the opinion that because of the adoption of the amendments offered by the gentleman from Indiana, we now have before us a bill that will do nothing of any consequence for small business.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The amendments referred to follow:

Page 13, lines 12 and 13, strike out "not more than $150,000" and insert in lieu thereof "the amount of paid-in capital and surplus but in no event more than $350,000."

Page 23, line 3, insert "(h) (1) in order to encourage participation by private enterprise generally in the development of small business investment companies, the Administration, upon terms and conditions prescribed by it and subject to the limitations of this subsection, shall issue a limited guaranty to each private corporation, partnership, and other person purchasing shares of stock in such a company, and to the United States with respect to the purchase by the Administration of the debentures of such a company under section 302 (a), against any loss which may be incurred because of the failure or insolvency of such company or its inability for other reasons to retire or redeem such shares of stock or debentures in accordance with their terms to the extent of the initial cost of the stock or the amount advanced pursuant to such debentures.

"(2) The Administration shall impose and collect a premium charge in connection with any purchase of shares of stock or debentures with respect to which at guaranty is provided by this subsection. Such premium charge (which shall be collected from the small business investment company at the time of the issuance of the shares of stock or debentures involved) shall be in an amount equal to one-half of 1 percent of the face amount of the shares of stock or debentures purchased; and all such charges shall be placed in a special fund in the Treasury of the United States to be used exclusively for the purposes of this subsection. Amounts in such special fund not currently needed for payments under paragraph (3) shall be invested in interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States.

"(3) Any payments required to be made as a consequence of a guaranty under this subsection shall be made from the special fund established under paragraph (2); and if in any case the amount available in such fund is insufficient to make payment under such guaranty in full, payments under such guaranty shall be made on a prorated basis to all persons entitled thereto to the extent of the amounts so available.

"(4) The provisions of this subsection shall apply to any company converted into a small business investment company under section 401, from and after the date of its conversion; and in addition any such company shall pay, at the time of and as a condition of such conversion, the premium charge described in paragraph (2) on all of the shares of its stock then outstanding and held by private corporations, partnerships, and other persons, basing such charge on the original purchase price of such shares.

"(5) In the event of the failure or insolvency of any small business investment company or its inability to retire or redeem its shares of stock and debentures according to their terms, or the dissolution of any such company under subsection (d), where payment under guaranties made by the Administration uner subsection (h) will be required, the Administration, notwithstanding any other provisions of law, shall take over and wind up the affairs of such company under the same procedures (insofar as appropriate) as those which are applicable to the liquidation of an insured bank under the Federal Deposit Insurance Act, and shall take any and all other actions which may be necessary and appropriate to insure to the maximum extent practicable that payment will be made from the assets of the company to all creditors of the company and thereafter the balance, if any, paid pro rata to holders of its stock and debentures and thereafter the deficiency, if any, paid under such guaranties to the extent provided for in this subsection."

Page 25, line 24, strike out the figures "250,000" and insert in lieu thereof the figures "350,000."

Mr. MULTER. My amendments at pages 13 and 25 of the bill change the maximum amounts of the loans that may be made by SBA to $350,000.

You will recall that we but recently amended the Small Business Administration Act, which has now been signed into law, so as to change the maximum amounts of those loans that SBA can make from $250,000 to $350,000. While I recognize that this is a new and experimental program, there can be no justification for having different amounts in the two bills. It would, therefore, have been much more logical and sensible to have provided the same maximum, to wit, $350,000 for the loans that could be made in each instance. It is ridiculous to provide that a small-business concern can go directly to SBA and borrow $350,000 but that a small-business investment company, which is to finance small business, can itself borrow not more than $150,000.

My third amendment was intended to set up a limited guaranty fund for the benefit of those who would be induced to make investments in these new ventures. I believe that such a provision in this bill would go a long way toward bringing private funds into this new field of endeavor. I concede that the idea of guaranteeing such investments is new but it is no newer today than was the original idea to insure deposits in our banks, or the idea of insuring shares in savings and loan associations, or, for that matter, the idea of guaranteeing mortgages as we do with VA loans and FHA loans. It is hardly as revolutionary as credit insurance.

I am in agreement with all those who label invested capital as risk capital, as well as with the idea that the prospect of gain and the fear of loss are important regulators of our economic system.

If we had adhered to the more restrictive application of those principles, however, we would never have developed the tremendously profitable insurance industry, which includes guaranty and indemnity principles.

I am sure you will recall that in the early days of insurance, policies were nothing more than gambling contracts. Even today, Lloyd's of London will issue what amounts to strictly a gambling contract under the guise of an insurance policy.

As insurance law developed, legislative bodies eliminated, in most jurisdictions, the speculative features so that today most of these laws require an insurable interest and limit recovery to the amount of actual loss.

Today, we have credit insurance, mortgage insurance, and deposit insurance only because businessmen and legislators dared to venture into uncharted fields.

While I do not pretend that my amendment has all the answers, I do think the principle is sound and should be encouraged.

A tax advantage will, of course, be somewhat of an incentive to the investor in the high income-tax bracket. It will be no incentive to the average investor, particularly that small investor who reports his capital gains as straight income because there is no tax advantage to his doing otherwise. It is my thought that the small business investment companies, while organized to help small business, will themselves have to be big business in order to be able to do the job. At the same time, I would like to see them developed into big business by bringing into them the average investor rather than only the big investor.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. MULTER. Surely.

Mr. HALLECK. I have tried to use temperate language and have tried to present my position on this matter in complete sincerity and in fair terms. I must say, however, that I cannot let go unchallenged the statement of the gentleman that the amendments that I have offered here, which have been adopted in the Committee of the Whole, have gutted the bill. They have done no such thing. All they have done is to bring about a situation which the gentleman, himself, with his committee, would have provided for 3 years hence, which is that the organizations to be chartered shall be chartered by the States rather than the Federal Government. Now, if any fair-minded person can find in that arrangement any basis for a statement that I gutted the bill, I fail to understand it.

Mr. MULTER. Mr. Chairman, I regret that the distinguished gentleman thinks my language was intemperate. I vigorously disagree with him as to what he thinks he has accomplished by his amendments. I do urge that his amendments have made the bill inoperative in a most important area. I think that is temperate language. I do not in any way attack his motives or his sincerity, but I do say we now have a bill in its present form, thanks to him, which will do nothing for small business.

It is sheer absurdity to say that a bill providing for Federal loans should be restricted to making those loans to State corporations. The bill very properly requires that these Federal loans may be made only to State or National corporations organized "expressly for the purpose of operating under this act." That is the language in section 309 on page 23 of the bill.

(Mr. TEWES asked and was given permission to revise and extend his remarks.)

Mr. TEWES. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, my purpose in rising is to establish a legislative record of congressional intent concerning this bill. I would appreciate it therefore if I could direct several questions to the gentleman from Texas concerning that part of the bill which has not received much consideration here, namely, the loans to State and local development companies.

It was my privilege in Wisconsin to be the small-business representative and chairman of a governor's commission which looked toward improving our industrial development. As a result of this State encouragement, local communities established industrial development corporations. Some of them are actually incorporated; some are not. If they are, they are incorporated by private individuals under the statutes of Wisconsin.

Now, my question is this: Is it the intention of this legislation that such corporations be entitled to receive funds under title V on page 25 of this bill?

Mr. PATMAN. I believe it is obvious, under the House amendments, that local associations are excluded from section 501, which appears on page 25. That section would apply only to State associations.

Mr. TEWES. This applied to title V on page 25 which does not apply to the amendments which have previously been adopted on the floor of the House.

Mr. PATMAN. In section 501, where the phrase "State and local development companies," appeared in the Senate bill, the phrase "and local" was stricken out, leaving it just "State development companies."

Mr. TEWES. But, is there not another section of the bill which provides that for the purpose of purchasing land and constructing plants, local industrial development corporations could participate?

Mr. PATMAN. Yes, but that is different. Authority with more rigid limitations. That is under section 502. Local assocations are eligible under section 502.

Mr. TEWES. Such a local corporation as I have mentioned here would be eligible?

Mr. PATMAN. Yes; for plant construction, conversion, or expansion, including the acquisition of land, loans may be made to either State or local associations for specific, identifiable small business concerns and for sound business purposes approved by SBA.

Mr. TEWES. Is there any limit on the amount of those loans made to local corporations?

Mr. PATMAN. That is an interesting question. That is where the State development companies come in so well. Under subsection 3 a loan of $250,000 can be made to each identifiable small business concern through that association, and that means that one association possibly could make loans amounting to $5 million or $10 million. It is conceivable. There is no limit to the number of identifiable small business concerns to which loans of $250,000 each could be made through a single local or State development company. So, there is where the State development companies that are already organized have such a great advantage. They are ready to go ahead. I have put in the RECORD a list of these State development companies.

Mr. TEWES. Then a corporation, which has been organized in my State by, let us say, 3 private individuals for the purpose of developing this community industrially would be authorized to receive loans for the purpose of buying land which would be used for new industry in that locality; is that a fair statement?

Mr. PATMAN. I am not sure at the moment if the number 10 is required to be eligible.

Mr. TEWES. But would a corporation which has been established and recognized by the State for the purpose of developing industry be eligible?

Mr. PATMAN. My attention has been called, under "definitions" the term "State development companies" means enterprises incorporated under State law with authority to promote and assist the growth and development of small-business concerns in the area covered by their operations. Obviously then, any number of members admitted by State law would be eligible. So a company with 3 members, if admitted under State law, would be eligible under this provision.

Mr. TEWES. I shall rephrase my question in the light of this new information. A corporation recognized by the State in a local municipality, for the purpose of developing itself industrially, would be recognized to receive loans under the terms of this section?

Mr. PATMAN. There are hundreds and thousands of industrial corporation, organized by chambers of commerce usually, to promote the interests of their respective towns and cities—and they are to be commended—but I am not sure how far SBA could go under this. I would not want to state that all of these different kinds of local associations will have certain rights that I am not sure that they will have.

Mr. TEWES. Neither is the word "development" any clearer as it is used in the language of the bill.

Mr. PATMAN. The pertinent definition appears on page 5, section 103, subsection (6). I cannot see anything there that would exclude industrial corporations.

Mr. TEWES. That is what I wanted to clarify. I thank the gentleman.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes pursuant to House Resolution 618, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on passage of the bill.

The question was taken; and on a division (demanded by Mr. PATMAN) there were—ayes 131, noes 5.

So the bill was passed.

A motion to reconsider was laid on the table.

COMMITTEE ON HOUSE ADMINISTRATION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elections of the Committee on House Administration may be permitted to sit during general debate while the House is in session the remainder of the day.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 638 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 11805) to promote the national defense by authorizing the construction of aeronautical research facilities by the National Advisory Committee for Aeronautics necessary to the effective prosecution of aeronautical research. After general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN], and yield myself such time as I may require.

Mr. Speaker, House Resolution 638 makes in order the consideration of H. R. 11805, unanimously reported by the Committee on Armed Services.

This bill authorizes funds for the construction program of the National Advisory Committee for Aeronautics in the amount of $29,993,000. These funds are for new research facilities, modernization of existing research facilities and supporting facilities and general plant and utility improvements. The bill lists the construction and equipment programs at Langley Laboratory, Va., Ames Laboratory, Calif., Lewis Laboratory, Ohio and the pilotless aircraft station, Wallops Island, Va.

The work of the NACA involves scientific research in aeronautics, particularly in the fields of hypersonic, subsonic, transonic and supersonic speed ranges. This research is extremely important to our national defense and I urge the adoption of House Resolution 638.

Mr. ALLEN of Illinois. Mr. Speaker, I know of no objection to the adoption of the rule.

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

Mr. DURHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 11805) to promote the national defense by authorizing the construction of aeronautical research facilities by the National Advisory Committee for Aeronautics necessary to the effective prosecution of aeronautical research.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 11805, with Mr. PERKINS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. DURHAM. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the Armed Services Committee has unanimously reported out H. R. 11805, the NACA construction bill for fiscal year 1959.

The total authorization sought this year is $29,933,000. This is substantially less than the fiscal year 1958 authorization, which was in the amount of $44,700,000.

All of us are familiar with the National Advisory Committee for Aeronautics and with the fine work in the field of research and development that they have carried on over the past many years. NACA, of course, will become the nucleus of the new National Aeronautics and Space Administration.

The construction program for this year is divided into four general areas, as follows:

(a) New research facilities, $23.5 million.

(b) Modernization of existing research facilities, $5.3 million.

(c) Modernization of supporting facilities, $260,000.

(d) General plant and utility improvements, $887,000.

On page 4 of the report, the program is broken down in greater detail and shows the particular items which are to be constructed at four NACA facilities: Langley Laboratory, Virginia; Ames Laboratory, California; Lewis Laboratory, Ohio; and Wallops Station, Virginia.

In addition to these breakdowns of the program, the report also sets out in considerable detail descriptions of the individual items. For example, the most costly single item in the program is a high-temperature structural dynamics facility at the Langley Laboratory. This project involves the construction of a high-temperature blow-down tunnel capable of simulating heating and loading experienced by hypersonic aircraft structures.

I might state at this point that the terms used by NACA in describing their complex research facilities are sufficiently unfamiliar to the layman that I have had inserted in the report a glossary of terms. One of these terms that I just used in describing the Langley facility is "hypersonic." This term refers to speeds greater than 5 times the speed of sound, which is in the order of 4,000 miles an hour. Other terms used in the program descriptions appear on pages 15 through 18 of the report.

Langley laboratory: The $12 million high-temperature facility at Langley is required because advances in aerodynamics and propulsion have increased the speed capabilities of aircraft and missiles so that flight up to and including satellite velocity is now possible.

Of course, when an air frame reaches a speed such as this, the high temperatures and heating rates encountered and the vibrations caused by propulsion systems create new problems which must be solved.

Also, at the Langley laboratory the program requests authority to construct an ultra-high-temperature materials facility. This will provide facilities to simulate the aerodynamic conditions encountered during the entry into the atmosphere of a long-range ballistic missile.

Today the extreme conditions of high temperatures, high velocity airflow encountered into the entry into the atmosphere of long-range ballistic missiles cannot be accurately simulated in ground apparatus except on an extremely small scale. For this reason, it has been necessary for ballistics missiles to serve as their own test vehicles to obtain this information. Obviously the provision of a facility of this kind will permit numerous tests in this area at a fraction of the cost involved in using missiles themselves as test vehicles. Indeed, a single flight test of a vehicle may be as costly as the complete facilities proposed for construction. This facility will cost almost $2.7 million.

Ames laboratory: At the Ames laboratory, there are 3 items involved. The most costly of these is a 12- by 12-inch hypersonic helium tunnel. This facility will cost $1,685,000. It will be used to measure the Mach number, the Reynolds number, heat transfer, and skin friction on various very high-speed aircraft and missile components and forms.

Here again we have terms not wholly familiar to the layman and in the glossary of terms, the definition of Mach and Reynolds number are given. Mach number indicates speed. For example, Mach I equals 763 miles per hour—the speed of sound at sea level. Reynolds number, in layman's language, indicates the closeness to actual conditions of flight that are represented by the model being tested. For example, if wind tunnel experiments are conducted in air which is compressed to 10 times the density of atmospheric air, the results obtained would

NAYS—38

Anderson	Hennings	Murray
Bible	Hill	Neuberger
Byrd	Humphrey	O'Mahoney
Carroll	Jackson	Proxmire
Chavez	Johnson, Tex.	Purtell
Church	Kefauver	Robertson
Clark	Kennedy	Smathers
Douglas	Kerr	Smith, Maine
Eastland	Lausche	Sparkman
Ervin	Long	Stennis
Fulbright	Magnuson	Symington
Green	Mansfield	Williams
Hayden	Morse	

NOT VOTING—14

Case, S. Dak.	Holland	Payne
Flanders	Martin, Pa.	Smith, N. J.
Frear	McClellan	Talmadge
Gore	McNamara	Yarborough
Hoblitzell	Monroney	

So the amendment of Mr. CASE of New Jersey was agreed to.

Mr. O'MAHONEY. Mr. President, for the reasons——

Mr. CASE of New Jersey. Mr. President, I move that the Senate reconsider the vote——

Mr. O'MAHONEY. Mr. President——

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. O'MAHONEY. Mr. President, for the reasons I have previously stated this afternoon, I move that the bill be recommitted to the Committee on Agriculture and Forestry. It is impossible to legislate a slogan. The bill before us is vague and uncertain and contradictory. It does not define what humane slaughter is. The bill should be recommitted so that it may be drafted intelligently and clearly. I make that motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. HUMPHREY. Mr. President, regardless of how one may feel about the bill, to vote to recommit is, of course, to kill the bill. We can have the bill in conference with the amendments which have been adopted, and we should permit it to go to conference. The bill has been studied for 3 years. Regardless of the eloquent plea of the distinguished Senator from Wyoming, I do not recall any testimony from some of the Senators who have complained about the bill. I can say most candidly that the bill has had the very careful study of the Department of Agriculture, humane societies, the American Meat Institute, and other organizations. It represents considerable thought and considerable action. The House passed the bill overwhelmingly. It had conducted hearings in the field. We ought to let the bill go to conference.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming [Mr. O'MAHONEY] on which the yeas and nays have been ordered.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. LAUSCHE. As to the amendments which have thus far been adopted, if the bill goes to conference, will the conferees have the power to define what is inhumane slaughter, so as to provide in the bill the principal objective which was sought to be accomplished when the bill was introduced?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the conferees will be confined to the difference between the House and Senate bills. Therefore, the answer is that the conferees will not be in a position to make such a definition.

Mr. MUNDT. Mr. President, I do not want to leave unanswered in the RECORD the statement that a vote to recommit is a vote to kill the bill. As one member of the committee who attended the hearings, I can say that if the bill is recommitted to the Committee on Agriculture and Forestry, the committee certainly will be bound to try to reconcile the various conflicting points of view which we have heard expressed in the Senate tonight, and to arrive at a solution which will move in the direction of humane slaughter.

I do not think a vote to recommit is a vote to kill the bill. It would be a vote to kill this particular language.

Mr. HUMPHREY. Mr. President, the reconciliation of the different points of view will be done in conference.

The PRESIDING OFFICER. The question is on the motion to recommit the bill. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HILL], the Senator from Florida [Mr. HOLLAND], the Senator from Georgia [Mr. TALMADGE], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

The Senator from Delaware [Mr. FREAR] and the Senator from Oklahoma [Mr. MONRONEY] are absent on official business attending the 49th Congress of the Interparliamentary Union as delegates representing the Senate at Rio de Janeiro, Brazil. The Senator from Arkansas [Mr. MCCLELLAN] is absent because of a death in his family.

I further announce that if present and voting, the Senator from Delaware [Mr. FREAR] and the Senator from Texas [Mr. YARBOROUGH] would each vote "nay."

On this vote, the Senator from Alabama [Mr. HILL] is paired with the Senator from Florida [Mr. HOLLAND]. If present and voting, the Senator from Alabama would vote "nay" and the Senator from Florida would vote "yea."

The Senator from Oklahoma [Mr. MONRONEY] is paired with the Senator from Georgia [Mr. TALMADGE]. If present and voting, the Senator from Oklahoma would vote "nay" and the Senator from Georgia would vote "yea."

Mr. DIRKSEN. I announce that the Senator from South Dakota [Mr. CASE] and the Senator from West Virginia [Mr. HOBLITZELL] are absent because of official business having been appointed by the Vice President to attend the 49th Congress of the Interparliamentary Union in Rio de Janeiro.

The Senator from Maine [Mr. PAYNE] is necessarily absent.

The Senator from Vermont [Mr. FLANDERS], the Senator from Pennsylvania [Mr. MARTIN], and the Senator from New Jersey [Mr. SMITH] are detained on official business.

If present and voting, the Senator from Maine [Mr. PAYNE] and the Senator from New Jersey [Mr. SMITH] would each vote "nay."

The result was announced—yeas 29, nays 53, as follows:

YEAS—29

Allott	Eastland	Martin, Iowa
Anderson	Ellender	Mundt
Barrett	Ervin	O'Mahoney
Bennett	Goldwater	Russell
Butler	Hickenlooper	Schoeppel
Capehart	Hruska	Stennis
Carlson	Jenner	Thurmond
Chavez	Johnston, S. C.	Thye
Curtis	Langer	Young
Dirksen	Malone	

NAYS—53

Aiken	Hennings	Morton
Beall	Humphrey	Murray
Bible	Ives	Neuberger
Bricker	Jackson	Pastore
Bridges	Javits	Potter
Bush	Johnson, Tex.	Proxmire
Byrd	Jordan	Purtell
Carroll	Kefauver	Revercomb
Case, N. J.	Kennedy	Robertson
Church	Kerr	Saltonstall
Clark	Knowland	Smathers
Cooper	Kuchel	Smith, Maine
Cotton	Lausche	Sparkman
Douglas	Long	Symington
Dworshak	Magnuson	Watkins
Fulbright	Mansfield	Wiley
Green	McNamara	Williams
Hayden	Morse	

NOT VOTING—14

Case, S. Dak.	Hoblitzell	Payne
Flanders	Holland	Smith, N. J.
Frear	Martin, Pa.	Talmadge
Gore	McClellan	Yarborough
Hill	Monroney	

So Mr. O'MAHONEY's motion to recommit was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the motion to reconsider was rejected.

Mr. NEUBERGER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HILL], the Senator from Florida [Mr. HOLLAND], the Senator from Montana [Mr. MURRAY], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

The Senator from Delaware [Mr. FREAR] and the Senator from Oklahoma [Mr. MONRONEY] are absent on official

business attending the 49th Congress of the Interparliamentary Union as delegates representing the Senate at Rio de Janeiro, Brazil.

The Senator from Arkansas [Mr. McCLELLAN] is absent because of a death in his family.

I further announce that, if present and voting, the Senator from Delaware [Mr. FREAR], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Montant [Mr. MURRAY], and the Senator from Texas [Mr. YARBOROUGH] would each vote "yea."

On this vote, the Senator from Alabama [Mr. HILL], is paired with the Senator from Florida [Mr. HOLLAND]. If present and voting, the Senator from Alabama would vote "yea," and the Senator from Florida would vote "nay."

Mr. DIRKSEN. I announce that the Senator from South Dakota [Mr. CASE] and the Senator from West Virginia [Mr. HOBLITZELL] are absent because of official business having been appointed by the Vice President to attend the 49th Congress of the Interparliamentary Union in Rio de Janeiro.

The Senator from Maine [Mr. PAYNE] is necessarily absent.

The Senator from New Hampshire [Mr. BRIDGES], the Senator from Vermont [Mr. FLANDERS], the Senator from Pennsylvania [Mr. MARTIN], and the Senator from New Jersey [Mr. SMITH] are detained on official business.

If present and voting, the Senator from Vermont [Mr. FLANDERS], the Senator from West Virginia [Mr. HOBLITZELL], the Senator from Maine [Mr. PAYNE], and the Senator from New Jersey [Mr. SMITH] would each vote "yea."

The result was announced—yeas 72, nays 9, as follows:

YEAS—72

Aiken	Fulbright	Mansfield
Allott	Goldwater	Martin, Iowa
Anderson	Green	McNamara
Barrett	Hayden	Morse
Beall	Hennings	Morton
Bennett	Hickenlooper	Mundt
Bible	Hruska	Neuberger
Bricker	Humphrey	Pastore
Bush	Ives	Potter
Butler	Jackson	Proxmire
Byrd	Javits	Purtell
Capehart	Jenner	Revercomb
Carlson	Johnson, Tex.	Robertson
Carroll	Jordan	Russell
Case, N. J.	Kefauver	Saltonstall
Chavez	Kennedy	Schoeppel
Church	Kerr	Smathers
Clark	Knowland	Smith, Maine
Cooper	Kuchel	Sparkman
Cotton	Langer	Symington
Curtis	Lausche	Thye
Dirksen	Long	Watkins
Douglas	Magnuson	Wiley
Dworshak	Malone	Williams

NAYS—9

Eastland	Johnston, S. C.	Talmadge
Ellender	O'Mahoney	Thurmond
Ervin	Stennis	Young

NOT VOTING—15

Bridges	Hill	Monroney
Case, S. Dak.	Hoblitzell	Murray
Flanders	Holland	Payne
Frear	Martin, Pa.	Smith, N. J.
Gore	McClellan	Yarborough

So the bill (H. R. 8308) was passed.

Mr. HUMPHREY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. NEUBERGER. Mr. President, I move to lay on the table the motion to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

FEDERAL AID TO THE STATES FOR SCHOOL CONSTRUCTION

Mr. McNAMARA. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by me on a program of Federal aid to the States for school construction.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR McNAMARA

An epidemic of adjournment fever seems to be settling over the Congress.

The main symptom of this fever is a deceptive mood of self-congratulation wherein the Members tell each other—and their constituents—what a great job they have done during the past months.

I would not like to puncture this mood—for, in a large sense, it is justified by the record of the 85th Congress.

However—that record will by no means be complete until the Congress takes care of an extremely important piece of unfinished business.

I refer specifically to a program of Federal aid to the States for school construction.

The Senate Labor and Public Welfare Committee currently is working on a program to grant 23,000 college scholarships a year.

Certainly, no one truly interested in American education can find fault with such a measure.

But the trouble is that it only nibbles at the edge of the main problem.

The problem, simply stated, is a continuing shortage of more than 140,000 classrooms—in the face of a constantly increasing population.

The problem involves a shortage of more than 30,000 teachers—and proper salaries for the ones we have.

What answer does a scholarship provide to the boy or girl who receives a substandard education because the school day is cut in half by double shifts?

What good is a scholarship program to a school district that simply does not have the funds available to build needed schools?

And how will scholarships help school districts pay their teachers a living wage?

These are the problems. Let us not be under any illusion that if we accept a scholarship program we are making any real strides toward improved American education.

Scholarships are a nice gesture, a nod in the right direction, but they are rapidly obscured by the magnitude of the real education problem. What we must have is a program that will help the States build the schools they so desperately need.

A truly meaningful program of Federal assistance to the States for education has been sought for years in the Congress. There has been too much talk and too little action.

I am seeking, within the Labor and Public Welfare Committee, to amend a true education assistance program to any so-called scholarship bill.

Falling within the committee, the fight will be carried to the floor of the Senate.

We speak often of the need to stand up and be counted on important issues.

I hope that my colleagues will soon have that opportunity to vote on a genuine education assistance program.

AVAILABILITY OF EQUITY CAPITAL AND LONG-TERM CREDIT TO SMALL-BUSINESS CONCERNS

Mr. FULBRIGHT. Mr. President, I ask that the Chair lay before the Senate the amendments of the House of Representatives to the bill S. 3651.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, which were, on page 1, lines 3 and 4, strike out "purpose," and insert "policy,"; on page 2, strike out the table of contents in its entirety and insert:

TABLE OF CONTENTS

Title I—Short title, statement of policy, and definitions

SEC. 101. Short title.
SEC. 102. Statement of policy.
SEC. 103. Definitions.

Title II—Small Business Investment Division of the Small Business Administration

SEC. 201. Establishment of Small Business Investment Division.
SEC. 202. Provision and purposes of funds.

Title III—Small-business investment companies

SEC. 301. Organization of small business investment companies.
SEC. 302. Capital stock and subordinated debentures.
SEC. 303. Borrowing power.
SEC. 304. Provision of equity capital for small-business concerns.
SEC. 305. Long-term loans to small-business concerns.
SEC. 306. Aggregate limitations.
SEC. 307. Exemptions.
SEC. 308. Miscellaneous.
SEC. 309. Approving State chartered companies for operations under this act.

Title IV—Conversion of State chartered investment companies and State development companies

Title V—Loans to State and local development companies

Title VI—Changes in Federal Reserve authority

SEC. 601. Repeal of section 13b of the Federal Reserve Act.
SEC. 602. Transfer of funds.

Title VII—Criminal penalties

On page 3, line 11, strike out "(a)"; on page 3, strike out lines 16 and 17, and insert:

(3) the terms "small business investment companies", "company", "small business investment company", and "company organized under this act" mean a small business investment company or companies, chartered under State laws for the purpose of operating under this act and authorized by the Administration, as provided in title III, to operate under this act.

On page 3, line 23, strike out "of 1953" and insert "and"; on page 4, strike out lines 1 through 4, inclusive; on page 4, line 5, strike out "(7)" and insert "(6)"; on page 4, line 5, strike out "State and local"; on page 5, line 6, strike out "of 1953"; on page 5, line 6, strike out "209 and 219" and insert "13 and 16"; on page 5, strike out line 10 over through and including line 10 on page 7, and insert:

PROVISION AND PURPOSES OF FUNDS

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "$650,000,000" each place it appears and inserting in lieu thereof "$900,000,000";

(2) by inserting before the period at the end of the fourth sentence the following: ", and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958"; and

(3) by inserting after the seventh sentence the following new sentence: "Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958."

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this act.

On page 7, line 13, strike out "organization" and insert "qualification"; on page 7, strike out lines 15 through 20, inclusive, and insert:

SEC. 301. (a) Small business investment companies formed by any number of persons, not less than ten, chartered under State laws for the purpose of operating under this act, may be authorized by the Administration to operate under this act.

On page 8, line 6, strike out all after "affairs." down through and including line 8; on page 8, strike out line 9, over through and including line 7 on page 9, and insert:

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration. In determining whether to authorize such a company to operate under this act, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion grant authority to such a company to operate under this act.

(d) Prior to the grant of such authority, the company must have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of 30 years;

On page 10, strike out lines 13 through 16, inclusive; on page 10, line 18, strike out "organized" and insert "authorized to operate"; on page 10, line 20, strike out "before it shall commence business"; on page 11, strike out lines 7 through 15, inclusive and insert:

(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.

On page 13, line 24, strike out all after "the" over through and including line 3 on page 14, and insert "Administrator"; on page 14, line 14, after "basis." insert "In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement."

On page 16, line 14, strike out "80a" and insert "80a–18"; on page 18, line 14, strike out all after "such" down through "forfeited," in line 15, and insert "forfeiture"; on page 19, strike out lines 14 through 25, inclusive; on page 20, strike out lines 6 through 19, inclusive; on page 20, strike out line 20 over through line 3 on page 22; on page 22, line 4, strike out "title V" and insert "title IV"; on page 22, line 6, strike out "501" and insert "401"; on page 22, line 7, strike out "and local"; on page 22, line 8, strike out all after "Act" down through "1961" in line 10; on page 22, line 19, strike out "or local"; on page 22, line 21, after "sources." insert "Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator"; on page 22, line 22, strike out "502" and insert "402"; on page 24, line 11, strike out "title VI" and insert "title V"; on page 24, line 14, strike out "601" and insert "501"; on page 24, line 21, strike out "fund for management counseling" and insert "transfer of funds"; on page 24, line 22, strike out "602" and insert "502"; on page 25, strike out lines 7 through 13, inclusive, and insert:

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into the Treasury as miscellaneous receipts.

On page 25, strike out line 14 over through line 8, on page 26; on page 26, line 9, strike out "title VII" and insert "title VI"; on page 26, line 10, strike out "701" and insert "601"; on page 26, line 18, strike out "702" and insert "602"; on page 27, line 7, strike out "703" and insert "603"; on page 27, line 11, strike out "704" and insert "604"; and on page 27, line 15, strike out "705" and insert "605."

Mr. FULBRIGHT. Mr. President, I move that the Senate disagree to the amendments of the House to S. 3651, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CLARK, Mr. PROXMIRE, Mr. CAPEHART, Mr. BRICKER, and Mr. BENNETT conferees on the part of the Senate.

Mr. KENNEDY obtained the floor.

PROPOSED AGREEMENT WITH GREAT BRITAIN FOR COOPERATION ON USES OF ATOMIC ENERGY FOR MUTUAL-DEFENSE PURPOSES (S. REPT. NO. 2041)

Mr. PASTORE. Mr. President, will the Senator from Massachusetts yield to me?

Mr. KENNEDY. I yield.

Mr. PASTORE. Mr. President, out of order, I ask unanimous consent to submit, from the Joint Committee on Atomic Energy, a report concerning a proposed agreement for cooperation by the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, on the uses of atomic energy for mutual-defense purposes.

As the Senate will recall, on June 23, 1958, the Senate debated and voted upon a bill to amend the Atomic Energy Act of 1954, to permit greater cooperation between the United States and our allies in the exchange of classified military information and material. The bill, H. R. 12716, after conference, on June 30, 1958, was passed by the Senate; and on July 2, 1958, was approved by the President as Public Law 85–479.

As the Senate will recall, Public Law 85–479, while permitting greater cooperation with our allies in the exchange of military atomic energy information and material, also contains a provision whereby the Congress may, by a concurrent resolution, disapprove a proposed agreement. By amendment of the Atomic Energy Act of 1954, proposed agreements for cooperation of a military nature, before becoming effective, must lie before the Joint Committee for a stipulated period of time. The period of time is 30 days during the 85th Congress and 60 days thereafter. A proposed agreement for cooperation cannot take effect if during this period of time the Congress adopts a concurrent resolution of disapproval.

The first proposed agreement submitted to Congress by the President since the enactment of Public Law 85–479 is one with Great Britain, which was submitted on July 3, 1958. The Joint Committee on Atomic Energy, through its Subcommittee on Agreements for Cooperation, under my chairmanship, having studied the proposed agreement, and having heard witnesses from the Department of Defense, the State Department, and the Atomic Energy Commission, concluded that the proposed agreement is in conformance with the letter and the spirit of the Atomic Energy Act of 1954, as amended. The full committee on July 22, 1958 adopted the report, and interposed no objections to the agreement.

I submit to the Senate the Joint Committee's report in support of the proposed agreement. After review of the report, I am certain that all Senate Members will join me in the belief that the proposed agreement with Great Britain will foster greater cooperation between these two countries, to their mutual advantage.

The PRESIDING OFFICER. The report will be received and printed.

Mr. PASTORE. Mr. President, I thank the Senator from Massachusetts for yielding to me.

SUSPENSION OF EMPLOYMENT OF CIVILIAN PERSONNEL OF THE UNITED STATES IN THE INTEREST OF NATIONAL SECURITY

Mr. JOHNSTON of South Carolina. Mr. President, on August 8, 1957, the Senate passed and sent to the House

S. 1411, to amend the act of August 26, 1950, giving the heads of the executive departments and agencies discretionary authority to retain or suspend employees pending a hearing on charges involving loyalty.

The House struck out all after the enacting clause and adopted provisions having far-reaching implications. The House provisions go far beyond the scope of the measure passed in the Senate. When that became known, a number of the members of the committee asked me to request that the bill be referred back to the committee for study. The Senate agreed to the request, and the bill was referred to the committee on July 11, 1958.

The committee has now had an opportunity to study the House provisions and, in executive session, unanimously agreed to request a conference with the House to see if the issues involved could be resolved.

Mr. President, I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JOHNSTON of South Carolina, Mr. CHURCH, Mr. CLARK, Mr. MARTIN of Iowa, and Mr. MORTON conferees on the part of the Senate.

Mr. JOHNSON of Texas. Mr. President, this matter was not known to me. I wonder if the Senator will assure us this action is agreeable to the minority leader?

Mr. JOHNSTON of South Carolina. It is. It is agreeable with the Senator from Kansas [Mr. CARLSON] and the full committee, Democrats and Republicans both.

Mr. JOHNSON of Texas. If objection should be indicated, this action should be vitiated. When we tell Senators we are not going to transact any other business, I try to adhere to that plan. If this action is not agreeable, I will ask the Senate to rescind this action.

Mr. JOHNSTON of South Carolina. I think there can be no objection.

ORDER TO CONVENE AT 10 O'CLOCK TOMORROW MORNING

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow, it convene at 10 o'clock in the morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, we expect to call up the conference report on the transportation bill.

We expect to consider the motion to reconsider on the resolution from the Foreign Relations Committee.

We expect to consider the resolution extending appropriations for August, presented by the distinguished chairman of the Appropriations Committee.

Mr. President——

The PRESIDING OFFICER. The Senator from Texas.

CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 2028, H. R. 13015, the military public-works bill. I should like to make that the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 13015) to authorize certain construction at military installations, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment.

Mr. JOHNSON of Texas. Mr. President, I do not have it within my power to determine when the absence of a quorum may be suggested, and therefore one may be suggested shortly after the Senate convenes tomorrow, but I should like all Members of the Senate to be on notice that we do not anticipate a yea-and-nay vote on the military public-works bill until after 11 o'clock, and Senators may make their plans accordingly.

CHANGE OF REFERENCE

On motion of Mr. JOHNSON of Texas, and by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of the bill (H. R. 2747) for the relief of John H. Parker, and it was referred to the Committee on Post Office and Civil Service.

KATINA LECKAS AND ARGERY LECKAS, NATIVIDADE AGRELA DOS SANTOS

Mr. JOHNSON of Texas. Mr. President, I ask that the Chair lay before the Senate the messages from the House on S. 3007 and S. 3129.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3007) for the relief of Katina Leckas and Argery Leckas, which was, in line 11, strike out all after "States" down through and including "act" in line 13, and insert:

SEC. 3. The natural parent of the beneficiaries of this act shall not, by virtue of such parentage, be accorded any right, status, or privilege under the Immigration and Nationality Act.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3129) for the relief of Natividade Agrela Dos Santos, which was, in line 8, strike out all after "that" down through and including "act" in line 10, and insert "the natural parent of the beneficiary shall not, by virtue of such parentage, be accorded any right, status, or privilege under the Immigration and Nationality Act."

Mr. JOHNSON of Texas. Mr. President, the Senate passed S. 3007 and S. 3129 on May 1 and May 21, 1958, respectively. These bills grant to the minor children adopted or to be adopted by citizens of the United States the status of nonquota immigrants. On July 8, 1958, the House passed S. 3007 and S. 3129, each with a minor amendment stating that the natural parents of the beneficiaries shall not be entitled to any right, status, or privilege under the Immigration and Nationality Act.

I move that the Senate concur in the House amendment to each of the bills, S. 3007 and S. 3129.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to.

MARIA GARCIA ALIAGA

Mr. JOHNSON of Texas. Mr. President, I ask that the Chair lay before the Senate the amendment of the House to S. 2511.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2511) for the relief of Maria Garcia Aliaga, which was to strike out all after the enacting clause and insert:

That the Attorney General is authorized and directed to cancel any outstanding order and warrant of deportation, warrant of arrest, and bonds, which may have issued in the case of Maria Garcia Aliaga. From and after the date of the enactment of this act, the said Maria Garcia Aliaga shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and order have issued.

Mr. JOHNSON of Texas. Mr. President, on May 21, 1958, the Senate passed S. 2511, to grant the status of permanent residence in the United States to the beneficiary. On July 8, 1958, the House of Representatives passed S. 2511, with an amendment to provide only for cancellation of outstanding deportation proceedings in behalf of the beneficiary.

I move that the Senate concur in the House amendment to S. 2511.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to.

ROMULO A. MANRIQUEZ

Mr. JOHNSON of Texas. Mr. President, I ask that the Chair lay before the Senate the amendment of the House to S. 3060.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3060) for the relief of Romulo A. Manriquez, which was, in line 6, to strike out "August 29, 1954," and insert "the date of the enactment of this act."

Mr. JOHNSON of Texas. Mr. President, on May 21, 1958, the Senate passed S. 3060, to grant the status of permanent residence in the United States to the beneficiary as of August 29, 1954, the date of his last entry to the United States. On July 8, 1958, the House passed S. 3060, to grant the status of permanent residence to the beneficiary as of the date of the enactment of the act. There were unusual and outstanding equities in this case which the Sen-

11. APPROPRIATIONS. Received the conference report on H. R. 12948, the D. C. appropriation bill for 1959 (H. Rept. 2325). pp. 14321-22

12. SMALL BUSINESS. Conferees were appointed on S. 3651, to make equity capital and long-term credit more readily available to small business. Senate conferees have not been appointed. p. 14326

13. AREA REDEVELOPMENT. Rep. Siler urged enactment of S. 3683, to provide Federal aid to economically depressed areas. pp. 14326-27

SENATE

14. APPROPRIATIONS. Agreed to the conference report on H. R. 11574, the independent offices appropriation bill for 1959, agreed to certain House amendments, and voted, 44 to 39, to recede from an item in disagreement to include $589 million for the Civil Service Retirement and Disability Fund. Sen. Sparkman spoke against the elimination of $100,000 for HHFA farm housing research, and Sens. Saltonstall and Magnuson stated they would consider the matter next Jan. in the supplemental or regular independent offices appropriation bill (pp. 14246-7). This bill will now be sent to the President. pp. 14243-56

Passed, 71 to 0, with amendment H. R. 12738, the Defense Department Appropriation bill for 1959, and conferees were appointed (pp. 14258-9, 14261-87). Agreed to an amendment, applying generally to Government departments and agencies, to require reports to Congress in writing, following the close of each calendar quarter, of the amount of each budgetary reserve in effect at the end of such quarter and the purpose for which each such reserve was established. This was a modification, proposed by Sen. Hayden, of a committee amendment that had been reported on this subject (pp. 14264-5).

Passed without amendment H. J. Res. 672, to make temporary appropriations until Aug. 31, 1958, to various agencies until their regular 1959 appropriation bills are enacted. This measure will now be sent to the President. p. 14191

15. TRANSPORTATION. Both Houses agreed to the conference report on S. 3778, to strengthen the national transportation system. This bill will now be sent to the President. pp. 14205-8, 14326

16. AGRICULTURE AND FORESTRY COMMITTEE ordered reported the following bills:

Without amendment:

- H. R. 6542, to authorize the conveyance of certain forest lands to Dayton, Wyo.;
- H. R. 11800, to authorize the Secretary to sell a tract of land and buildings thereon under the jurisdiction of ARS to Clifton, N. J.;
- S. 3333, to improve the insured loan program of FHA;
- H. R. 12224, to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment;
- H. R. 12840, to provide a single acreage allotment for Va. sun-cured and Va. fire-cured tobaccos if farmers vote approval in a referendum;
- S. 4151, to establish uniform provisions for the transfer of acreage allotments when the landowner is displaced by an agency having the right of eminent domain;
- S. 3858, to authorize CCC to purchase flour and cornmeal for donation instead of having such products processed from its own stocks; and
- H. Con. Res. 295, endorsing plans of a non-government group to establish a Hall of Fame for Agriculture.

With amendment:

S. 2142, to amend the Agricultural Marketing Agreement Act so as to extend restrictions on certain citrus fruits;

S. Res. 344, to authorize the committee to study marketing practices relating to loose and tied tobacco; and

H. R. 12126, to extend to wild animals the same prohibition against entry into the U. S. as domestic animals from any country where rinderpest or foot-and-mouth disease exists;

An original bill to extend the Mexican farm labor program for one year. p. D758

17. WATERSHED PROJECTS. The Agriculture and Forestry Committee approved the following watershed projects: Adobe Creek, Buena Vista Creek, and Central Sonoma, Calif.; Upper Nanticoke River, Del.; Donaldson Creek, Ky.; Mud Creek, Nebr.; Peavine Mountain, Nev.; Indian Creek, Tenn. and Miss.; and Cook Creek, Wis. pp. D758-9

18. FORESTRY. Conferees were appointed on S. 3051, to provide for either private or Federal acquisition of that part of the Klamath Indian forest lands which must be sold. House conferees have not been appointed. pp. 14257-8

19. RESEARCH. The Government Operations Committee reported with amendments S. 4039, to authorize the head of any Government agency now making contracts for research to grant funds for the support of such research (S. Rept. 2044). p. 14186

20. PERSONNEL. The Post Office and Civil Service Committee reported with amendment H. R. 7710, to provide for the lump-sum payment of all accumulated and accrued annual leave of deceased employees (S. Rept. 2055). p. 14186

21. FISHERIES; EXTENSION. The Interstate and Foreign Commerce Committee reported with amendments S. 2973, to establish a fishery extension service in the Fish and Wildlife Service to carry out cooperative fishery extension work with the States (S. Rept. 2063). p. 14186

22. MINERALS. The Interior and Insular Affairs Committee reported with amendment S. 4146, to provide for incentive payments to minerals producers (S. Rept. 2057). p. 14186

23. FARM INCOME. Sen. Hruska discussed the July release of USDA "Farm Income Situation," showing the increase in farm income, and inserted 14 statements based on USDA statistics showing the upward trend in farm income and living standards. pp. 14199-200

24. ELECTRIFICATION. Sen. Neuberger criticized the alleged bias of Douglas McKay as Chairman of the International Joint Commission studying the position of the Federal government as to joint actions with Canada in developing the Columbia River Basin, asserted that his opposition to Federal power developments made him unsuitable for formulating the Federal position in this area, and inserted an editorial on the matter. pp. 14204-5

25. HUMANE SLAUGHTER. Sen. Allott stated that the humane slaughter bill, because of the discretion granted the Secretary for formulating regulations, was "one of the best, prime example of what legislation should not be." pp. 14190-1

forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof, shall be public, and all orders and decisions of the committee, and of any such subcommittee shall be public.

For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the 85th Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman and may be served by any person designated by any such chairman or member.

(8) The committee is authorized and directed to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper.

(9) Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of a subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 3, 1959, as hereinabove provided.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, this is a resolution that is offered every 2 years; is that not correct?

Mr. McCORMACK. Yes; that is correct.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield.

Mr. MARTIN. I might say to the gentleman from Iowa that this is the resolution that generally comes up when we are about ready to adjourn and I hope that is what it indicates at this time.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MAKING EQUITY CAPITAL AND LONG-TERM CREDIT MORE READILY AVAILABLE FOR SMALL-BUSINESS CONCERNS

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. SPENCE, BROWN of Georgia, PATMAN, RAINS, KILBURN, McDONOUGH, and WIDNALL.

TRANSPORTATION ACT OF 1958

Mr. HARRIS. Mr. Speaker, I call up the conference report on the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 24, 1958.)

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

HON. GEORGE H. CHRISTOPHER

Mr. CANNON. Mr. Speaker, in the extension of my remarks on the Honorable GEORGE H. CHRISTOPHER, included in the CONGRESSIONAL RECORD at page A6671 on July 24, 1958, I inadvertently failed to include the following letter from Mr. Julius Helm of the Missouri State Rural Electrification Association:

MISSOURI STATE RURAL
ELECTRIFICATION ASSOCIATION.
Jefferson City, Mo., March 31, 1958.

Hon. GEORGE H. CHRISTOPHER,
House Office Building,
Washington, D. C.

DEAR GEORGE: May I take this opportunity to express my personal appreciation, and the appreciation of all the REA co-op officials throughout the State, for the wonderful help you gave us during the congressional committee hearings in Washington last week. As you so ably pointed out to the committee during your interrogation of various witnesses, it is difficult to understand why the farmer, through no fault of his own, has become the victim of the worst cost-price squeeze in the history of the country while practically every other segment of the national economy has been experiencing unprecedented prosperity. As you stated so forcefully during the hearings, this certainly is no time to place a greater financial burden upon the farmer by increasing his electric utility bill, regardless of how small the increase may seem to some people.

George, I want to reiterate as sincerely and honestly as I know how our appreciation for the consistent and wholehearted support you have always given the rural electrification and Federal power programs. It is my firm conviction that if it were not for such fearless and dedicated individuals, who are not afraid to stand up on the floor of Congress and be counted, that sooner or later legislation would be enacted that would cause the rates of the REA cooperatives to be so high that only a very few farmers could afford the blessings of electricity.

Any time you are in Jefferson City I wish you would drop by for a visit.

Sincerely yours,

JULIUS HELM,
General Manager.

EAST KENTUCKY OR EAST OF SUEZ

(Mr. SILER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SILER. Mr. Speaker, at the beginning of this 85th Congress I sought and received a place on the House Banking and Currency Committee. My purpose was to get into a position where I could work with others on that committee, having jurisdiction over financial aid to commerce and industry, toward offering the House a piece of legislation that would try to give assistance to the industrially depressed areas of our country. The present bill, S. 3683, to be known as the Area Development Act is that proposed legislation and many legislators and technicians have worked faithfully on it for presentation to this body whenever the leadership of the House is willing for this to be done.

Along with many others here in the House, I myself come from a depressed area. Such an area is one where the levee of misfortune is so high that the flood tide of prosperity never spills over into its little valley of despondency. It is a place where the jam is never quite down on the lower shelf. It is a hungry breadline in the midst of a land flowing with milk and honey. It is a woodland where the nightingale of hope does not sing any more because the mockingbird of despair has taken over and filled up the air with all the dirges of the doomed and the desperate. The rest of the country may be gloriously riding upon a high and happy crest of prosperity, yet here and there exist a few little black spots where the word prosperity is merely something to be read in the newspapers but never experienced in e pluribus unum reality.

Now there is nothing wrong with the terrain or substance of the physical land in these various depressed areas of the rolls in verdant beauty, abounds in mineral wealth, rises high in magnificent mountain peaks. Yet, paradoxically it is something of a barren desert, that is to say, a desert in the matter of employment opportunities for its citizens. Eastern Kentucky lost about 92,000 people between 1950 and 1956, or more than

to ship their cargoes on vessels of members of the conference exclusively and the higher of which is charged to those who do not.

This bill would become effective immediately upon enactment, and would continue in effect only until June 30, 1960. This is interim legislation to provide a reasonable time for thorough study of the entire operation of steamship conferences and their practices, the first in 44 years.

It is not the intent of the committee to circumvent the recent ruling of the Supreme Court in the Isbrandtsen case, since the Court in that instance decided the question before it on the very narrow grounds on which it was brought. The majority opinion did not set aside the dual-rate system, nor conferences as such, but merely stated that it decided as it did:

> In view of the fact that in the present case the dual-rate system was instituted for the purpose of curtailing Isbrandtsen's competition.
>
> This consideration, moreover, is particularly compelling in light of our present holding. Since, as we hold, section 14 third strikes down dual-rate systems only where they are employed as predatory devices.

Our committee simply wants time to study this matter. The bill would permit existing conferences and dual-rate arrangements to continue in effect until June 30, 1960. There are about 60 such conferences. The recent Supreme Court decision dealt with only one of them. However, the decision might raise questions with respect to the others and could result in chaos and confusion in the industry unless the pending measure is approved. I urge the House to approve the bill.

Mr. BONNER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BONNER: Page 1, line 8, after the word "on", strike out the words "the effective date of this amendment" and in lieu thereof insert the words "May 19, 1958."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 652 was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BONNER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a report on S. 4036.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

DEPARTMENT OF JUSTICE MOVING TO RESOLVE SMALL-BUSINESS PROBLEMS OF ASCAP MEMBERS

(Mr. ROOSEVELT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROOSEVELT. Mr. Speaker, during March and April of this year Subcommittee No. 5 of the House Small Business Committee, of which I am privileged to be chairman, held a series of hearings relating to the policies of the American Society of Composers, Authors, and Publishers. During the course of these hearings evidence was developed which pointed to the serious competitive handicaps under which the smaller composers and publishers were required to operate. In many instances these handicaps appeared to stem from regulations and policies issued and applied by ASCAP.

At the conclusion of the hearings a complete set of the record of the evidence was supplied promptly to the Antitrust Division, Department of Justice, which agency had obtained a decree against ASCAP during March of 1950.

The testimony and evidence developed by the subcommittee showed that the Antitrust Division certainly would be warranted in studying this evidence with the view in mind of determining whether it should initiate further corrective action in order to preserve or restore the ability of the smaller composers and publishers to remain in business.

Since the continued existence of literally hundreds of smaller publishers and composers may well depend upon the nature of the action taken by the Department, I feel that they are entitled to know about any such action being undertaken. For this reason I am pleased to announce that I have been given to understand that the Antitrust Division is now negotiating with ASCAP representatives in an effort to resolve those competitive problems which were shown to exist by the Subcommittee's hearings.

It is heartening to learn that the Department of Justice has moved along these lines although certainly I had hoped that final action could have been taken long before this date.

It is my intention to watch eagerly the result of these negotiations in order to learn whether they will be successful in bringing about a situation wherein the smaller members of the industry can survive and compete with an acceptable degree of effectiveness.

HOUR OF MEETING TOMORROW

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CAMPAIGN EXPENDITURES

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent for the present consideration of House Resolution 656.

The Clerk read the resolution, as follows:

Resolved, That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 3, 1959, with respect to the following matters:

(1) The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

(2) The amounts subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, office space, moving-picture films, and automobile and any other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1958 to which a candidate for the House of Representatives is to be nominated or elected.

(3) The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

(4) The amounts, if any, raised, contributed, and expended by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

(5) The violations, if any, of the following statutes of the United States:

(a) The Federal Corrupt Practices Act.

(b) The act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, Public Law 101, 80th Congress, chapter 120, 1st session, referred to as the Labor Management Relations Act, 1947.

(d) Any statute or legislative act of the United States or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5, of the Constitution of the United States.

(6) Such other matters relating to the election of Members of the House of Representatives in 1958, and the campaigns of candidates in connection therewith, as the committee deems to be of public interest, and which in its opinion will aid the House of Representatives in enacting remedial legislation, or in deciding contests that may be instituted involving the right to a seat in the House of Representatives.

(7) The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate, or political committee, setting

11. SMALL BUSINESS. Conferees agreed to file a conference report on S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. p. D799

12. EDUCATION. Rep. Frelinghuysen inserted a statement by HEW Secretary Flemming favoring H. R. 13247, the national defense education bill, and explaining the provisions of the bill. p. 14925

13. LEGISLATIVE PROGRAM. Rep. McCormack announced that the conference report on H. R. 13015, the military construction authorization bill, will be considered Wed., Aug. 6 (p. 14925). Also scheduled for consideration the same day are S. 4071, the farm bill, H. R. 11056, to regulate the imports of certain fruits and nuts, and H. R. 13580, to increase the public debt limit.

SENATE

14. APPROPRIATIONS. The Appropriations Committee reported with amendments H. R. 13192, the mutual security appropriation bill for 1959 (S. Rept. 2204) (p. 14773). The Daily Digest states that the bill provides $3.5 billion, a $440 million increase over the House-passed figure (p. D795).

15. SURPLUS DISPOSAL; FOREIGN TRADE. Both Houses received the President's semi-annual report on Public Law 480 operations, Jan. 1-June 30, 1958. pp. 14771, 14881 (H. Doc. 431)

The Agriculture and Forestry Committee reported without amendment S. 3858, to authorize CCC to purchase flour and cornmeal for donation instead of being limited to having such products processed from its own stocks (S. Rept. 2196). p. 14773

Sen. Humphrey discussed health problems and our foreign policy in the Middle East and urged the importance of using surplus foods to reduce human suffering. pp. 14845-8

16. LOANS. The Agriculture and Forestry Committee reported without amendment S. 3333, to improve the insured loan program of the FHA (S. Rept. 2192). p. 14773

17. FARM LABOR. The Agriculture and Forestry Committee reported an original bill S. 4232 to extend the Mexican farm labor program for 1 year (S. Rept. 2189). p. 14773

18. FORESTRY. Concurred in the House amendment of S. 1748, to add certain lands in Ida. and Wyo. to the Caribou and Targhee National Forests. This bill will now be sent to the President. p. 14819

Sen. Morse stated that big timbermen were attempting to prevent the use of provisions in the Small Business Act of 1958 which would help smaller lumbermen by setting aside timber for them to cut, and urged that the Small Business Administration take its own course. p. 14862

19. ROADS. Passed H. R. 12776, to revise and codify the laws relating to "Highways," with an amendment substituting the language of S. 3953 as reported by the Senate committee. S. 3953 was indefinitely postponed. pp. 14819-32

20. DESERT-LAND ENTRIES. Concurred in the House amendments to S. 359, to permit desert land entries on disconnected tracts of land aggregating less than 320 acres and forming a compact unit. This bill will now be sent to the President. p. 14818

21. RECLAMATION. Concurred in the House amendment to S. 4002, to authorize the Grey Reef Dam and Reservoir as a part of the Glendo unit of the Missouri River Basin Project. This bill will now be sent to the President. p. 14818

The Interior and Insular Affairs Committee reported with amendments S. 3648, to authorize the Interior Department to construct and operate the Navaho Indian Irrigation project and the initial stage of the San Juan-Chama project (S. Rept. 2198); and S. 1887, to authorize the Interior Department to construct the San Luis unit, Central Valley Project, Calif., and to enter into an agreement with the State to operate it (S. Rept. 2202). p. 14773

22. LANDS. The Agriculture and Forestry Committee reported without amendment H. R. 6542, to authorize the conveyance of certain forest lands to Dayton, Wyo. (S. Rept. 2194); and H. R. 11800, to authorize the sale of certain ARS lands and buildings to Clifton, N. J. (S. Rept. 2193). p. 14773

Sen. Morse discussed the formula requiring payment of at least 50% of the appraised fair market value for lands to be transferred to local agencies for public purposes, and 100% if for private purposes, which he has insisted on since 1946, in connection with a bill to dispose of certain property in Roseburg, Ore. pp. 14857-62

23. HALL OF FAME. The Agriculture and Forestry Committee reported without amendment H. Con. Res. 295, favoring the establishment of a Hall of Fame for Agriculture (S. Rept. 2190). p. 14773

24. ACREAGE ALLOTMENTS. The Agriculture and Forestry Committee reported with amendment S. 4151, to establish uniform provisions for the transfer of acreage allotments when the landowner is displaced by an agency having the right of eminent domain (S. Rept. 2195). p. 14773

25. IMPORTS. The Agriculture and Forestry Committee reported with amendments S. 2142, to amend the Agricultural Marketing Agreement Act so as to extend restrictions on the importation of certain citrus fruits and figs, (S. Rept. 2191). p. 14773

26. PURCHASING. The Government Operations Committee reported with amendments S. 3224, to assist small business firms to obtain a fair share of Government purchases and contracts and to expedite Government procurement (S. Rept. 2201). p. 14773

27. FISHERIES. The Interstate and Foreign Commerce Committee ordered reported with an amendment in the nature of a substitute bill, S. 3229, the proposed Federal Fisheries Assistance Act of 1958. p. D796

28. FEDERAL-STATE RELATIONS. The Judiciary Committee ordered reported with amendment S. 337, to establish rules of interpretation governing questions of the effect of acts of Congress on State laws. p. D796

29. DEFENSE PRODUCTION. S. 4162, to provide for the cancellation of certain uncollectible loans and operating losses under Title III of the Defense Production Act, was made the unfinished business. p. 14817

30. ELECTRIFICATION. Sen. Humphrey inserted an article by the manager of the Colo. Rural Electric Association urging greater independence of the REA administrator from USDA control. pp. 14839-40

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Clerk of the House of Representatives is authorized and directed to procure and furnish—

(1) to each Representative and Delegate and the Resident Commissioner of Puerto Rico, upon request by such person, United States airmail and special delivery postage stamps in an amount not exceeding $400, for the 1st session of the 86th Congress and for each succeeding regular session of Congress, for the mailing of postal matters arising in connection with his official business; and

(2) to each standing committee of the House of Representatives, upon request of the chairman thereof, United States airmail and special delivery postage stamps in an amount not exceeding $240, for the 1st session of the 86th Congress and for each succeeding regular session of Congress, for official business of each such committee.

SEC. 2. (1) The Speaker, the majority and minority leaders, and the majority and minority whips of the House of Representatives shall each be allowed, for the 1st session of the 86th Congress and for each succeeding regular session of Congress, United States airmail and special delivery postage stamps in an amount not exceeding $360.

(2) For the 1st session of the 86th Congress and for each succeeding regular session of Congress, the following officers of the House of Representatives shall each be allowed United States airmail and special delivery postage stamps in the amounts herein specified as follows: The Clerk of the House, $640; the Sergeant at Arms, $480; the Doorkeeper, $400; and the Postmaster, $320.

SEC. 3. In addition to amounts of United States airmail and special delivery postage stamps made available by this act for the 1st session of the 86th Congress, each person and committee referred to in this act shall be entitled to receive, until June 30, 1959, the amount of such stamps to which he would have been entitled but for the enactment of this act.

SEC. 4. Except as provided in section 3, amounts of United States airmail and special delivery postage stamps made available by the first section and section 2 of this act shall be in lieu of, and not in addition to any amounts of such stamps made available under any other provisions of law to persons and committees referred to in such sections.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE LATE HONORABLE HAROLD K. CLAYPOOL

The SPEAKER. The Chair recognizes the gentleman from Ohio [Mr. POLK] to make an announcement.

Mr. POLK. Mr. Speaker, it is my sad duty to inform the House of the death of Hon. Harold Kile Claypool, a former Member of the House who passed away at his home in Chillicothe, Ohio, on August 2, 1958, of a heart attack.

Mr. Claypool represented the old 11th District of Ohio as a Democratic Representative in the 75th, 76th, and 77th Congresses from January 3, 1937, to January 3, 1943.

He was a worthy son of a great father. His father, Hon. Horatio Clifford Claypool, had served as a Democratic Representative from Ohio in the 62d, 63d, and 65th Congresses. Also a cousin of Mr. Claypool's father, Hon. John Barney Peterson, of Crown Point, Ind., served in Congress as a Democratic Representative in the 63d Congress.

During the 75th Congress, Mr. Claypool served on the Committees on Immigration and Naturalization, Mines and Mining, and World War Veterans' Legislation.

In the 76th and 77th Congresses he held membership on the Committees on Expenditures in Executive Departments, Flood Control, Mines and Mining, and World War Veterans' Legislation.

He was most conscientious in attending to the congressional work of his district. It was my privilege to know Mr. and Mrs. Claypool rather intimately during the 75th and 76th Congresses. Our districts joined and his home at Chillicothe was only 40 miles east of my home at Highland, Ohio. We lived at the same apartment hotel here in Washington during the time Congress was in session and often drove back to Ohio together in attending to the public business of our districts.

In 1951, when the Ohio General Assembly gerrymandered the State, Ross County was made a part of the sixth congressional district, and the Claypool family became my constituents. I have never known a finer, kinder, Christian gentleman than Harold Claypool. One of his most outstanding characteristics was his innate cheerful and happy attitude toward life. No matter how difficult or annoying or troublesome were the times or circumstances, Harold Claypool always had a smile for everyone. To his friends he was always known as Happy Claypool. Of him it can well be said that no one more completely exemplified the thought contained in the World War I song "Pack Up Your Troubles in Your Old Kit Bag and Smile, Smile, Smile."

Mr. Claypool was born at Bainbridge, Ross County, Ohio, June 2, 1886. He attended the public schools and Ohio State University. Before coming to Congress he was engaged in the publishing business at Columbus, Ohio, and for many years published the Hunter and Trader magazine. After leaving Congress in 1943 he resumed his former business pursuits.

In 1944 he was appointed United States marshal for the southern district of Ohio and held this position until 1953.

Mr. Claypool was one of the best known and most highly respected men in all of southern Ohio.

His unexpected and untimely passing has come as a great shock to his legion of friends and associates.

Mr. Claypool leaves his wife, Mrs. Frances Claypool; his mother, Mrs. Elizabeth Kile Claypool; a brother, Garrett S. Claypool; and two grandchildren. Mrs. Polk and I feel we have lost a good and true friend; an old friend whose place cannot be filled. To his charming and lovely wife and to his entire family we extend our deepest and most heartfelt sympathy in this great bereavement.

Mr. Speaker, I ask unanimous consent that all Members may have the privilege of extending their remarks on the life and character of Harold K. Claypool. I know that many of the older Members remember him well.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. RAYBURN. Mr. Speaker, I am grieved to learn of the passing of the man we knew as "Happy" Claypool. He was popular and loved in the House of Representatives. He was a man of high character and good principles. He served well his day and generation.

To all his loved ones I convey my deepest sympathy.

WAIVING CERTAIN PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the resolution (H. J. Res. 611) to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after "act" insert "Patrick Brendan Cox."

Page 2, strike out lines 1 to 8, inclusive.

Page 2, strike out all after line 8 over to and including line 9 on page 3.

Page 3, strike out lines 10 to 24, inclusive.

Page 3, after line 24, insert:

"SEC. 2. Notwithstanding the provision of section 212 (a) (6) of the Immigration and Nationality Act, Domenica Buttaro may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act, under such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare, may deem necessary to impose: *Provided*, That unless the beneficiary is entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act."

Page 4, line 1, strike out "4" and insert "3."

Page 4, line 6, strike out "5" and insert "4."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ADMISSION OF CERTAIN ALIENS

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H. J. Res. 610) to facilitate the admission into the United States of certain aliens, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Page 2, after line 7, insert:

"SEC. 4. For the purposes of sections 203 (a) (3) and 205 of the Immigration and Nationality Act, the minor child, Chan Yak Shing, shall be held and considered to be the natural-born alien child of Peter Chin, also known as Chan Jung Dot, a lawful permanent resident of the United States."

Page 2, line 8, strike out "4" and insert "5."

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

MINERAL LEASING ACT OF FEBRUARY 25, 1920

Mr. ASPINALL submitted the following conference report and statement on the bill (S. 2069) to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of coal on the public domain.

CONFERENCE REPORT (H. REPT. No. 2477)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2069) to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of coal on the public domain, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following: "That section 27 of the Act of February 25, 1920, as amended (41 Stat. 448, 30 U. S. C. 184), is further amended by deleting from the first sentence thereof the words 'coal or' and 'for each of said minerals' and by inserting at the beginning of said section the following:

" 'No person, association, or corporation, except as herein provided, shall take or hold coal leases or permits during the life of such lease in any one State exceeding an aggregate of ten thousand two hundred and forty acres: *Provided,* That a person, association or corporation may apply for coal leases or permits for acreage in addition to said ten thousand two hundred and forty acres, which application or applications shall be in multiples of forty acres, not exceeding a total of five thousand one hundred twenty additional acres in such State, and shall contain a statement that the granting of a lease for such additional lands is necessary for the person, association, or corporation to carry on business economically and is in the public interest. On the filing of said application, the coal deposits in such lands covered thereby shall be temporarily set aside and withdrawn from all forms of disposal under this Act. The Secretary of the Interior shall, after posting notice of the pending application in the local land office, conduct public hearings on said application or applications for additional acreage. After such public hearings, to such extent as he finds to be in the public interest and necessary for the applicant in order to carry on business economically, the Secretary of the Interior may, under such regulations as he may prescribe, permit such person, association, or corporation to take or hold coal leases or permits for an additional aggregate acreage of not more than five thousand one hundred and twenty acres in such State. The Secretary may, in his own discretion or whenever sufficient public interest is manifested, reevaluate the lessee's or permittee's need for all or any part of the additional acreage. The Secretary may cancel the lease or leases and permit or permits covering all or any part of the additional acreage, if he finds that such cancellation is in the public interest or that the coal deposits in the additional acreage are no longer necessary for the lessee or permittee to carry on business economically or if the lessee or permittee has divested himself of all or any part of the original ten thousand two hundred and forty acres or no longer has facilities which in the Secretary's opinion enable him to exploit the deposits under lease or permit. No assignment, transfer, or sale of any part of the additional acreage may be made without the approval of the Secretary.' "

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

WAYNE N. ASPINALL,
WALTER ROGERS,
KEITH THOMSON,
Managers on the Part of the House.

JOSEPH C. O'MAHONEY,
JOHN A. CARROLL,
FRANK A. BARRETT,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2069) to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of coal on the public domain, submit the following statement in explanation of the effect of the language agreed upon and recommended in the accompanying conference report:

The principal purpose of S. 2069 is to increase from 5,120 acres to 10,240 acres the lands which any individual person, association, or corporation may hold under Federal coal leases or permits within any one State. Provision was also made in the bill as it passed the Senate for increasing this limitation by not more than 5,120 acres in individual cases if, after public hearing, the Secretary of the Interior found this to be in the public interest and necessary for economical operation of the applicant's business.

The House amended this latter provision to allow a revocable withdrawal of the extra area until such time as the applicant had an immediate need for it in his business and for a lease or permit at that time.

The managers on the part of the House and the Senate have agreed to a third version which embodies the desirable features of the House and the Senate provisions. The conference recommendation calls for a temporary withdrawal of the extra lands followed by a public hearing to determine whether a lease or permit would be in the public interest and is necessary for the applicant's business. If these criteria are met, leases or permits may be issued, subject to cancellation upon a finding that such is in the public interest or that the extra acreage is not required for the lessee's or permittee's business, that the lessee or permittee has divested himself of any of his base lands, or that his facilities are no longer such that he could exploit the leased deposits. The conference version also provides that the additional acreage may not be transferred without approval of the Secretary.

The conferees have also agreed to deletion of section 2 of the Senate-passed version of the bill. This section repealed subsection 2 (c) of the act of February 25, 1920, as amended, limiting the coal permits and leases which railroads may hold.

WAYNE N. ASPINALL,
WALTER ROGERS,
KEITH THOMSON,
Managers on the Part of the House.

CORRECTION OF THE RECORD

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent that the permanent RECORD be corrected as follows:

The remarks of the gentleman from Illinois on H. R. 12876 erroneously appear in the debate on H. R. 13580. For the permanent RECORD, I ask unanimous consent to correct this unfortunate mix-up by transposing my remarks as they now appear on page 14906 of the CONGRESSIONAL RECORD of August 5, 1958, to follow the remarks from my colleague of Illinois [Mr. MACK] on page 14882 of the CONGRESSIONAL RECORD of that date.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CORRECTION OF THE RECORD

Mr. GATHINGS. Mr. Speaker, I ask unanimous consent that the permanent RECORD be corrected as follows: Under date of August 4, at page 14711, in the first column, paragraph 6, strike out the word "then" on page 14711 of RECORD of August 4, 1958, first column, at the end of third paragraph from bottom of the column, add a period after the word "higher", capitalize the "I" in the word "in", delete the period after "1961" and make a small "t" in the word "the."

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SMALL BUSINESS

Mr. BROWN of Georgia. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report and statement on the bill (S. 3651) to make equity capital and long-term credit more readily available for small business concerns, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The conference report and statement follow:

CONFERENCE REPORT (H. REPT. No. 2492)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 12, 14, 16, 23, 24, 26, 27, 28, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, and 45.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21, 22, 29, 30, 31, and 32, and agree to the same.

Amendment numbered 2: That the Senate recede from its disagreement to the amend-

ment of the House numbered 2 and agree to the same with an amendment as follows: In the matter proposed to be inserted by the House amendment, strike out "SEC. 602. Transfer of funds" and insert "SEC. 602. Fund for management counseling"; and the House agree to the same.

Amendment numbered 4: That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"(3) the terms 'small-business investment company' and 'company' mean a small-business investment company organized as provided in title III, including (except for purposes of section 301 and section 308 (f)) a State-chartered investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small-business investment company under section 401 of this Act."

And the House agree to the same.

Amendment numbered 13: That the Senate recede from its disagreement to the amendment of the House numbered 13, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided,* That no such company shall be chartered by the Administration under this section in any State unless the Administration determines that investment companies cannot be chartered under the laws of such State and operate in accordance with the purpose of this Act: *Provided further,* That no such company shall be chartered by the Administration under this section after June 30, 1961."

And the House agree to the same.

Amendment numbered 15: That the Senate recede from its disagreement to the amendment of the House numbered 15, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by the House amendment, restore the matter proposed to be stricken out by the House amendment, and on page 9, line 3, of the Senate engrossed bill, strike out "309 (f)" and insert "308 (f)"; and the House agree to the same.

Amendment numbered 25: That the Senate recede from its disagreement to the amendment of the House numbered 25, and agree to the same with an amendment as follows: Restore the matter proposed to be stricken out by the House amendment, and on page 20 of the Senate engrossed bill strike out the sentence beginning in line 12 and insert the following: "Such approval shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies."; and the House agree to the same.

Amendment numbered 38: That the Senate recede from its disagreement to the amendment of the House numbered 38, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by the House amendment, restore the matter proposed to be stricken out by the House amendment, and on page 25, line 10, of the Senate engrossed bill strike out "section 207 (c) of the Small Business Act of 1953" and insert "section 7 (d) of the Small Business Act"; and the House agree to the same.

Amendment numbered 39: That the Senate recede from its disagreement to the amendment of the House numbered 39, and agree to the same with an amendment as follows: Restore the matter proposed to be stricken out by the House amendment, and (1) on page 25, line 14, of the Senate engrossed bill, strike out "Section 207 of the Small Business Act of 1953" and insert "Section 7 of the Small Business Act"; (2) on page 25, line 17, of the Senate engrossed bill, strike out "(c)" and insert "(d)"; (3) on page 25, line 21, of the Senate engrossed bill, strike out "agricultural" and insert "agriculture for"; (4) on page 25, line 25, of the Senate engrossed bill, strike out "subsection (b) (4) of this section" and insert "section 8 (b) (1)."

And the House agree to the same.

BRENT SPENCE,
PAUL BROWN,
WRIGHT PATMAN,
ALBERT RAINS,
JACKSON E. BETTS,
GORDON L. MCDONOUGH,
WILLIAM B. WIDNALL,
Managers on the Part of the House.

J. W. FULBRIGHT,
JOHN SPARKMAN,
JOSEPH S. CLARK,
WILLIAM PROXMIRE,
WALLACE F. BENNETT,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The following House amendments made technical, clerical, clarifying, or conforming changes: 1, 2, 3, 5, 7, 8, 9, 10, 22, 27, 28, 33, 34, 35, 37, 40, 41, 42, 43, 44, and 45. With respect to these amendments (1) the Senate either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the House recedes in order to conform to other action agreed upon by the committee of conference.

Amendments Nos. 4, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, and 26: Title III of the Senate bill (and related provisions in other titles) authorizes the Small Business Administration, until June 30, 1961, to charter small business investment companies to provide equity capital and long-term loan funds to small-business concerns under the program established by the bill. State-chartered investment companies which meet certain of the standards and requirements applicable to Federally chartered companies under the bill, and State investment and development companies which are converted by their shareholders before July 1961 into small business investment companies in accordance with procedures and standards prescribed by the bill, could also operate as small business investment companies under the program. After June 1961 there would be no further Federal chartering of such companies or conversion of State companies (although companies so chartered or converted would continue to operate under the program), and the only new small business investment companies would be those chartered under State law expressly for the purpose of operating under the program.

These House amendments eliminated from the bill all provision for Federal chartering of small business investment companies and all provision for the conversion of State investment and development companies, thus providing that operations under the new program from its inception (except for the direct SBA loans to State and local development companies authorized by both versions of the bill) will be carried on exclusively through investment companies chartered under State law expressly for the purpose of such operations. Substantially all of the standards, procedures, and functions prescribed in the Senate bill with respect to the organization and operation of Federally chartered companies would be made specifically applicable to these State-chartered companies, including the requirement that the articles of incorporation of any such company be presented to the Administrator for his approval before it can operate under the program and that such articles confer certain specified powers upon the company.

The Senate recedes on amendments Nos. 17 and 18, and recedes, with amendments, on amendments Nos. 4, 13, 15, and 25, and the House recedes on the remaining amendments. Under the action thus taken by the conferees, the Small Business Administration's authority for a 3-year period to issue Federal charters to small business investment companies (as provided in the Senate bill) is retained, but such authority is limited to States where investment companies cannot be chartered under State law and operate in accordance with the purpose of the act. State-chartered investment companies would not be compelled to meet the organizational requirements which are imposed with respect to federally chartered companies under both the Senate bill and the House amendments (and which are also applicable to State-chartered companies under the Senate bill), although in approving State-chartered companies to operate under the program the Administration would still take into account such factors as the need for small-business financing and the soundness of the company involved, and in their operations under the program such companies would be governed by regulations of the Administration. The authority in the Senate bill for State investment and development companies (during a 3-year period) to convert themselves into Federal small business investment companies is retained in the conference agreement.

This represents a compromise to protect the traditional powers of the States to charter business corporations, while at the same time permitting Federal chartering in situations where State laws are not compatible with effective operation of a State-chartered company under the new act. There are strong indications that this situation exists in some States; before issuing a Federal charter in such a State, the Small Business Administrator would have to make an affirmative determination that this is the case.

Amendment No. 6: Section 103 (a) (6) of the Senate bill (defining the term "investment companies") in effect required a State-chartered investment company to meet the definition contained in the Investment Company Act of 1940 in order to qualify for conversion into a small business investment company under title IV of the bill. The House amendment deleted this definition, in order to permit smaller, closely held companies to qualify for conversion. The Senate recedes.

Amendment No. 11: Section 202 of the Senate bill provided the sum of $250 million for the new small business investment company program, making such sum available over a 3-year period through public debt transactions the proceeds of which would constitute a new and separate revolving fund and be used for purposes enumerated in section 203. The House amendment also provided the sum of $250 million for the program; but it would make such sum available (through amendments to the Small Business Act, replacing both section 202 and section 203 of the Senate bill) by increasing the amount authorized to be appropriated

to the Administration's existing revolving fund and earmarking the increased amount for the new program.

The Senate recedes, so that the bill agreed to in conference authorizes financing through appropriated funds rather than public debt transactions. In view of the fact that it has been argued recently that public debt financing could not be provided in this bill under the Constitution and the Rules of the House, the committee of conference wishes to emphasize that in agreeing to the House amendment on this point they do not in any way concede the validity of any such argument. The House Banking and Currency Committee agreed to strike the public debt transaction provisions for entirely different reasons, among them being the fact that the other SBA programs are financed through appropriations. Also, the Bureau of the Budget has already approved a request of $50 million in appropriations for this new program, and the Senate Appropriations Committee is actively considering this request; the conference committee is confident that this sum will be made available. The acceptance of the House amendment should not, therefore, be taken as a precedent by those who would deny the long-recognized jurisdiction of the legislative committees of both Houses to include provisions for public debt transactions in bills they report.

Amendment No. 19: Section 302 (b) of the Senate bill authorized the purchase of small-business investment company stock by banks, financial institutions, insurance companies, corporations, partnerships, and other persons, limiting the aggregate amount of such stock which may be held by a Federal Reserve member bank or a bank insured by the Federal Deposit Insurance Corporation to 1 percent of its capital and surplus. The House amendment restricted this stock-purchase authority to banks, and added new language to make it clear that the right of Federal Reserve member banks and FDIC-insured banks to purchase such stock up to 1 percent of their capital and surplus is subject (except in the case of national banks) to the provisions of applicable State law; the extent to which institutions other than banks could purchase such stock would, of course, continue to be governed by other applicable law. The Senate recedes.

Amendment No. 20: Section 304 (d) of the Senate bill, in requiring a small-business concern receiving capital under the bill to invest in the stock of the company furnishing the capital (in an amount equal to not less than 2 nor more than 5 percent of the capital so furnished), authorized the Administrator to permit such concern to postpone making its investment in such stock for a period of up to 3 years. The House amendment eliminated this authority to permit the postponement of the required investment. The Senate recedes.

Amendment No. 21: Section 305 of the Senate bill authorized long-term loans to small-business concerns by small-business investment companies; and subsection (b) of that section would permit such loans to be made either directly or on a participation basis. The House amendment added new language to subsection (b) limiting small-business investment company participation, where the participation is on a deferred basis, to 90 percent of the balance of the loan outstanding at the time of disbursement. The Senate recedes.

Amendments Nos. 29, 30, and 31: Section 501 of the Senate bill authorized the Administration to make loans to State and local development companies in exchange for their obligations, to assist in carrying out the purposes of the act, with a termination date for loans to local development companies of June 30, 1961. These House amendments eliminated all authority to make such loans to local development companies, thus restricting the program to State companies (but retaining in other provisions of the bill the authority to make secured loans for plant construction or improvement to local as well as State development companies). The Senate recedes.

Amendment No. 32: This amendment added to section 501 (b) of the Senate bill a new sentence requiring that unsecured loans made to development companies (under the program discussed in connection with amendments Nos. 29, 30, and 31) must be treated on an equal basis with funds of the highest priority borrowed by such companies from other sources after the enactment of the act, except when this requirement is waived by the Administrator. The Senate recedes.

Amendments Nos. 36, 38, and 39: Section 601 of the Senate bill repealed section 13b of the Federal Reserve Act (which authorizes working-capital loans to business concerns by Federal Reserve Banks), and section 602 of the Senate bill provided that amounts repaid to the United States by those banks as a result of such repeal shall be used to finance a new program of grants for studies, research, and counseling for small businesses under the Small Business Act. Under the program, grants would be limited to $40,000, and not more than one grant could be made in any one State in any one year. These House amendments eliminated the new program and provided that amounts repaid as a result of the repeal of section 13b shall be covered into the Treasury as miscellaneous receipts.

The conference agreement retains the provisions of the Senate bill, with technical amendments. The committee of conference felt that these grants will materially assist in filling the need for management counseling for small-business concerns. Lack of such counseling constitutes one of the most serious handicaps many small businesses face today.

BRENT SPENCE,
PAUL BROWN,
WRIGHT PATMAN,
ALBERT RAINS,
JACKSON E. BETTS,
GORDON L. MCDONOUGH,
WILLIAM B. WIDNALL,
Managers on the Part of the House.

FARM LEGISLATION

(Mr. H. CARL ANDERSEN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. H. CARL ANDERSEN. Mr. Speaker, the rallying cry for votes against fair and equitable farm legislation which would help stabilize and support our farm economy has become a plea to reduce food prices for consumers. I know that food prices are high, but so are all the other retail prices in our present economy.

The classic example of this protect-the-consumer clamor was the opposition to the resolution earlier this year to freeze price supports, especially those for dairy products. It will also be recalled that Secretary Benson publicly promised retail price reductions on dairy products if he was permitted to reduce dairy price supports. As a matter of fact, he said that if retail prices did not go down the trade would hear from him.

For the information of our colleagues pleading for consumers, I quote the following facts and figures from the United States Department of Agriculture. The dairy price support reductions went into effect April 1, 1958—now let us see what has happened to consumer prices. From May 1957 to May 1958 retail prices on butter went down only four-tenths of a cent, cheese went up six-tenths, fresh milk went up four-tenths, and evaporated milk went up six-tenths. In that same period the spread between producers and consumers went up 9 percent.

As I have predicted time and again consumers do not benefit from legislative and administrative action to depress farm commodity prices. The middlemen, processors, and food handlers take the difference and even add on a little more as I have pointed out. Consumers do not gain anything, and, as a matter of hard fact, they lose purchasing power for the goods and services they want to sell in the rural areas. I hope we have heard the last of this plea for consumers as a device to muster votes against necessary farm legislation. The statistics of our food economy prove that neither producers nor consumers gain anything, so why hurt the producers?

CORRECTION OF ROLLCALL

Mr. GRANT. Mr. Speaker, on rollcall No. 153 on August 4 I am recorded as being absent. I was present and answered to my name. I ask unanimous consent that the RECORD and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

MILITARY CONSTRUCTION

Mr. VINSON. Mr. Speaker, I call up the conference report on the bill (H. R. 13015) to authorize certain construction at military installations, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 5, 1958).

(Mr. VINSON asked and was given permission to revise and extend his remarks.)

Mr. VINSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is one of the most important bills that has been considered by the House during this session.

When the bill passed the House, it authorized an expenditure of $1,658,491,000. When the bill passed the Senate it authorized an expenditure of $1,644,641,000. As a result of the conference between the House and the Senate, the bill now is $21,616,000 less than the House version and $6,766,000 less than the Senate version.

The Senate included 108 National Guard armories. This, therefore, makes a total Reserve program in the bill of 259 Reserve installations.

Mr. Speaker, there are only two matters in this conference report that I desire to discuss. One has reference to what is known as the condemnation of

Aug 6, 1958

House

13. INSPECTION SERVICES. The Government Operations Committee ordered reported S. 3873, to permit the interchange of inspection services between executive agencies without reimbursement or transfer of funds. p. D805

14. REPORTS. The Government Operations Committee adopted the following reports (to be released Aug. 11):
"Atomic Shelter Program," "Research and Development (Office of Secretary of Defense)," "Saline Water Program," "False and Misleading Advertising (Weight Reducing Remedies)," "Availability of Information From Federal Departments and Agencies (Progress of Study, February 1957-June 1958)," and "Federal-State Relations (Grants-in-Aid)" (Release date for the last report is Aug. 9). p. D805

15. STATEHOOD. The Interior and Insular Affairs Committee ordered reported, by a vote of 22-4, H. R. 49, to admit Hawaii into the Union as a State. p. D806

16. MINERALS. Received the conference report on S. 2069, to amend the Mineral Leasing Act so as to promote the development of coal on the public domain (H. Rept. 2477). pp. 15042, 15114

17. SMALL BUSINESS. Received the conference report on S. 3651, to make equity capital and long-term credit more readily available for small-business concerns (H. Rept. 2492). pp. 15042-44, 15114

18. LEGISLATIVE PROGRAM. Rep. McCormack announced that after three conference reports (trade agreements extension, Defense Department appropriations, and small business) the only business scheduled for the rest of the week was the educational programs bill. pp. 15052, 15085

SENATE

19. SURPLUS COMMODITIES; FOREIGN TRADE. Sen. Humphrey commended the 8th semi-annual report on Public Law 480 for recognizing that the program would continue for at least the next 5 years and asserted that this supported his earlier requests for a 2-year extension of the program instead of 1-year. He urged the Secretary to work with him for conference committee consideration of the bills passed by both houses on this subject, and stated that passage of S. 4071, the Senate farm bill, by the House, would cause even greater surpluses to be disposed of. pp. 14981-2

20. TOBACCO. Agreed to, as reported by the Agriculture and Forestry Committee, S. Res. 334, to direct the Committee to study tobacco marketing practices pertaining to loose and tied tobacco. pp. 14980-1

21. SURPLUS PROPERTY. Concurred in the House amendments to S. 2572, to modify the procedures for submitting proposed surplus property disposals to the Attorney General. As passed the bill would increase the maximum cost exempted from $1 million to $3 million, excluding scrap or salvage, and alter certain language deemed ambiguous. This bill will now be sent to the President. p. 14966

22. FEDERAL-STATE RELATIONS. The Judiciary Committee reported with amendments S. 337, to establish rules of interpretation governing questions of the effect of acts of Congress on State laws (S. Rept. 2230). pp. 14950-1

23. ACCOUNTING. Received from the Treasury a report of the Bureau of Accounts covering restoration of balances withdrawn from appropriation and fund accounts under the control of Treasury. p. 14950

24. MINERALS. Both Houses received from the Interior Department a proposed bill to amend the Mineral Leasing Act to prevent the undesirable division of oil and gas leaseholds; to the Interior and Insular Affairs Committees. pp. 14950, 15114

25. LEGISLATIVE PROGRAM. S. 666, to remove seed wheat which has been treated with poisonous substances from the "unfit for human consumption" category under Sec. 22 of the Agricultural Adjustment Act amendments of 1935, was made the unfinished business (p. 15035), displacing S. 4162, to provide for the cancellation of certain uncollectible loans and operating losses under Title III of the Defense Production Act (p. D802).

Sen. Mansfield announced that today, Aug. 7, the Senate would consider S. 1436, to provide for the administration of farm programs by farmer-elected committeemen; S. 3858, to authorize the CCC to purchase flour and cornmeal for donation instead of being limited to having such products processed from its own stocks; and S. 4146, to provide incentive payments for the production of certain strategic minerals (p. 15029).

ITEMS IN APPENDIX

26. ELECTRIFICATION. Sen. Kefauver inserted a magazine article and his letter in reply discussing the ruling of the Internal Revenue Service that public utilities could not deduct as business expenses the cost of propaganda against public power. pp. A7047-8

Various insertions describing the importance of completing legislation on the TVA self-financing program. pp. A7043, A7059-60, A7063-4, A7069-10

27. FARM PROGRAM. Sen. Mundt inserted an article, "The Farmer Today," and stated it points out "so splendidly the contrast that is often found in our 'men of the soil.'" p. A7043

28. ECONOMIC SITUATION. Sen. Hoblitzell inserted an editorial, "Recession Lesson--Government Aids Find United States Economy Can Rebound Without Big Federal Hypo." p. A7044

Rep. Wilson inserted an article, "Economy Heading Upward." p. A7066

29. TRADE AGREEMENTS. Sen. Jenner inserted editorials favoring a review of the tariff situation and the tariff policy. pp. A7045-6

30. STATEHOOD. Sen. Langer inserted a N. Dak. Chamber of Commerce resolution favoring statehood for Hawaii. p. A7047

31. FAIR TRADE. Rep. Alger inserted an article and various editorial excerpts opposing the proposed fair-trade legislation. pp. A7052-3, A7066-7

32. PUBLIC DEBT. Speeches in the House by Reps. Beamer and Collier opposing any further increase in the debt limitation. pp. A7053, A7068-9

Rep. Multer stated that the administration's "failure to control inflation is shown by the growth of debt, both public and private," and inserted an editorial on this subject. pp. A7078-9

33. WATER RESOURCES. Rep. Engle inserted a recent speech, "California Water Development Progress and Problems." pp. A7060-2

85th Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 2492

SMALL BUSINESS INVESTMENT BILL OF 1958

August 6, 1958.—Ordered to be printed

Mr. Spence, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3651]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 12, 14, 16, 23, 24, 26, 27, 28, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, and 45.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21, 22, 29, 30, 31, and 32, and agree to the same.

Amendment numbered 2:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the House amendment, strike out "Sec. 602. Transfer of funds" and insert: *Sec. 602. Fund for management counseling*; and the House agree to the same.

Amendment numbered 4:

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

> *(3) the terms "small business investment company" and "company" mean a small business investment company organized as provided in title III, including (except for purposes of section 301 and section 308 (f)) a State-chartered investment company which*

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The following House amendments made technical, clerical, clarifying, or conforming changes: 1, 2, 3, 5, 7, 8, 9, 10, 22, 27, 28, 33, 34, 35, 37, 40, 41, 42, 43, 44, and 45. With respect to these amendments (1) the Senate either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the House recedes in order to conform to other action agreed upon by the committee of conference.

Amendments Nos. 4, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, and 26: Title III of the Senate bill (and related provisions in other titles) authorizes the Small Business Administration, until June 30, 1961, to charter small-business investment companies to provide equity capital and long-term-loan funds to small-business concerns under the program established by the bill. State-chartered investment companies which meet certain of the standards and requirements applicable to federally chartered companies under the bill, and State investment and development companies which are converted by their shareholders before July 1961 into small-business investment companies in accordance with procedures and standards prescribed by the bill, could also operate as small-business investment companies under the program. After June 1961 there would be no further Federal chartering of such companies or conversion of State companies (although companies so chartered or converted would continue to operate under the program), and the only new small-business investment companies would be those chartered under State law expressly for the purpose of operating under the program.

These House amendments eliminated from the bill all provision for Federal chartering of small business investment companies and all provision for the conversion of State investment and development companies, thus providing that operations under the new program from its inception (except for the direct Small Business Administration loans to State and local development companies authorized by both versions of the bill) will be carried on exclusively through investment companies chartered under State law expressly for the purpose of such operations. Substantially all of the standards, procedures, and functions prescribed in the Senate bill with respect to the organization and operation of federally chartered companies would be made specifically applicable to these State-chartered companies, including the requirement that the articles of incorporation of any such company be presented to the Administrator for his approval before it can operate under the program and that such articles confer certain specified powers upon the company.

The Senate recedes on amendments Nos. 17 and 18, and recedes, with amendments, on amendments Nos. 4, 13, 15, and 25, and the House recedes on the remaining amendments. Under the action thus taken by the conferees, the Small Business Administration's authority for a 3-year period to issue Federal charters to small business investment companies (as provided in the Senate bill) is retained, but such authority is limited to States where investment companies cannot be chartered under State law and operate in accordance with the purpose of the act. State-chartered investment companies would not be compelled to meet the organizational requirements which are imposed with respect to federally chartered companies under both the Senate bill and the House amendments (and which are also applicable to State-chartered companies under the Senate bill), although in approving State-chartered companies to operate under the program the Administration would still take into account such factors as the need for small-business financing and the soundness of the company involved, and in their operations under the program such companies would be governed by regulations of the Administration. The authority in the Senate bill for State investment and development companies (during a 3-year period) to convert themselves into Federal small business investment companies is retained in the conference agreement.

This represents a compromise to protect the traditional powers of the States to charter business corporations, while at the same time permitting Federal chartering in situations where State laws are not compatible with effective operation of a State-chartered company under the new act. There are strong indications that this situation exists in some States; before issuing a Federal charter in such a State, the Small Business Administrator would have to make an affirmative determination that this is the case.

Amendment No. 6: Section 103 (a) (6) of the Senate bill (defining the term "investment companies") in effect required a State-chartered investment company to meet the definition contained in the Investment Company Act of 1940 in order to qualify for conversion into a small business investment company under title IV of the bill. The House amendment deleted this definition, in order to permit smaller, closely held companies to qualify for conversion. The Senate recedes.

Amendment No. 11: Section 202 of the Senate bill provided the sum of $250 million for the new small business investment company program, making such sum available over a 3-year period through public-debt transactions the proceeds of which would constitute a new and separate revolving fund and be used for purposes enumerated in section 203. The House amendment also provided the sum of $250 million for the program; but it would make such sum available (through amendments to the Small Business Act, replacing both sec. 202 and sec. 203 of the Senate bill) by increasing the amount authorized to be appropriated to the Administration's existing revolving fund and earmarking the increased amount for the new program.

The Senate recedes, so that the bill agreed to in conference authorizes financing through appropriated funds rather than public-debt transactions. In view of the fact that it has been argued recently that public-debt financing could not be provided in this bill under the Constitution and the Rules of the House, the committee of conference wishes to emphasize that in agreeing to the House amend-

ment on this point they do not in any way concede the validity of any such argument. The House Banking and Currency Committee agreed to strike the public-debt-transaction provisions for entirely different reasons, among them being the fact that the other Small Business Administration programs are financed through appropriations. Also, the Bureau of the Budget has already approved a request of $50 million in appropriations for this new program, and the Senate Appropriations Committee is actively considering this request; the conference committee is confident that this sum will be made available. The acceptance of the House amendment should not, therefore, be taken as a precedent by those who would deny the long-recognized jurisdiction of the legislative committees of both Houses to include provisions for public debt transactions in bills they report.

Amendment No. 19: Section 302 (b) of the Senate bill authorized the purchase of small business investment company stock by banks, financial institutions, insurance companies, corporations, partnerships, and other persons, limiting the aggregate amount of such stock which may be held by a Federal Reserve member bank or a bank insured by the Federal Deposit Insurance Corporation to 1 percent of its capital and surplus. The House amendment restricted this stock-purchase authority to banks, and added new language to make it clear that the right of Federal Reserve member banks and FDIC-insured banks to purchase such stock up to 1 percent of their capital and surplus is subject (except in the case of national banks) to the provisions of applicable State law; the extent to which institutions other than banks could purchase such stock would, of course, continue to be governed by other applicable law. The Senate recedes.

Amendment No. 20: Section 304 (d) of the Senate bill, in requiring a small-business concern receiving capital under the bill to invest in the stock of the company furnishing the capital (in an amount equal to not less than 2 nor more than 5 percent of the capital so furnished), authorized the Administrator to permit such concern to postpone making its investment in such stock for a period of up to 3 years. The House amendment eliminated this authority to permit the postponement of the required investment. The Senate recedes.

Amendment No. 21: Section 305 of the Senate bill authorized long-term loans to small-business concerns by small business investment companies; and subsection (b) of that section would permit such loans to be made either directly or on a participation basis. The House amendment added new language to subsection (b) limiting small business investment company participation, where the participation is on a deferred basis, to 90 percent of the balance of the loan outstanding at the time of disbursement. The Senate recedes.

Amendments Nos. 29, 30, and 31: Section 501 of the Senate bill authorized the Administration to make loans to State and local development companies in exchange for their obligations, to assist in carrying out the purposes of the act, with a termination date for loans to local development companies of June 30, 1961. These House amendments eliminated all authority to make such loans to local development companies, thus restricting the program to State companies (but retaining in other provisions of the bill the authority to make secured loans for plant construction or improvement to local as well as State development companies). The Senate recedes.

Amendment No. 32: This amendment added to section 501 (b) of the Senate bill a new sentence requiring that unsecured loans made to development companies (under the program discussed in connection with amendments Nos. 29, 30, and 31) must be treated on an equal basis with funds of the highest priority borrowed by such companies from other sources after the enactment of the act, except when this requirement is waived by the Administrator. The Senate recedes.

Amendments Nos. 36, 38, and 39: Section 601 of the Senate bill repealed section 13b of the Federal Reserve Act (which authorizes working-capital loans to business concerns by Federal Reserve Banks), and section 602 of the Senate bill provided that amounts repaid to the United States by those banks as a result of such repeal shall be used to finance a new program of grants for studies, research, and counseling for small businesses under the Small Business Act. Under the program, grants would be limited to $40,000, and not more than 1 grant could be made in any 1 State in any 1 year. These House amendments eliminated the new program and provided that amounts repaid as a result of the repeal of section 13b shall be covered into the Treasury as miscellaneous receipts.

The conference agreement retains the provisions of the Senate bill, with technical amendments. The committee of conference felt that these grants will materially assist in filling the need for management counseling for small-business concerns. Lack of such counseling constitutes one of the most serious handicaps many small businesses face today.

BRENT SPENCE,
PAUL BROWN,
WRIGHT PATMAN,
ALBERT RAINS,
JACKSON E. BETTS,
GORDON L. MCDONOUGH,
WILLIAM B. WIDNALL,
Managers on the Part of the House.

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House - Aug. 7, 1958

4. SMALL BUSINESS. Agreed to the conference report on S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. pp. 15182-86

5. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 12738, the Defense Department appropriation bill for 1959, and acted on amendments in disagreement. This bill will now be sent to the President. pp. 14176-82, 15146-7 (The conferees deleted the requirement for reports on budgetary reserves, but requested that the Budget Bureau arrange for such reports.)

6. IMPORTS. Agreed to the conference report on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. pp. 15186-87

7. CONTRACTS. Passed as reported H. R. 11749, to extend the Renegotiation Act of 1951 for 6 months, until June 30, 1959. pp. 15188-89

8. EDUCATION. Began debate on H. R. 13247, the national defense education bill, after agreeing, 265 to 108, to a Rules Committee resolution for debate on the bill. pp. 15192-218

9. PERSONNEL. The Post Office and Civil Service Committee reported H. R. 9407, with amendment, to provide additional opportunity for certain employees to obtain career-conditional and career appointments in the competitive service (H. Rept. 2506); and S. 4004, without amendment, to encourage transfers of Federal employees for service with international organizations (H. Rept. 2509). p. 15231

The Foreign Affairs Committee reported with amendment S. 3195, to authorize certain retired Federal personnel to accept and wear decorations, presents, and other things tendered them by certain foreign countries (H. Rept. 2521). p. 15232

The Post Office and Civil Service Committee issued a report on the study of manpower utilization in financial management functions in the Federal Government (H. Rept. 2512). p. 15232

The Ways and Means Committee reported without amendment H. R. 11908, to repeal Sec. 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws (H. Rept. 2515). p. 15232

10. INSPECTION SERVICES. The Government Operations Committee reported without amendment S. 3873, to permit the interchange of inspection services between executive agencies without reimbursement or transfer of funds (H. Rept. 2508). p. 15231

11. FORESTRY. The Interior and Insular Affairs Committee reported without amendment H. R. 12242, to authorize the sale or exchange of certain Forest Service lands in Pima County, Ariz. (H. Rept. 2523). p. 15232

12. RECLAMATION. The Interior and Insular Affairs Committee ordered reported H. R. 12899, to construct the San Luis unit of the Central Valley project, Calif.; and H. J. Res. 585, to authorize studies and a report on service to certain California counties from the Central Valley project. p. D814

13. ELECTRIFICATION. The Rules Committee adopted a motion to reconsider previous action of having tabled hearing to consider the granting of a rule on S. 1869, to authorize the TVA to issue and sell bonds to assist in the financing of its power programs. p. D814

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued August 8, 1958
For actions of August 7, 1958
85th-2d, No. 135

CONTENTS

Acreage allotments.....36
Annual leave.....9
Appropriations.....5,23,39
Area redevelopment.....2
Budgetary reserves.....5
CCC.....20
Contracts.....7
Cornmeal.....20
Cotton.....16,35
Desert land entries.....24
Economic situation.....29
Education.....8,33
Electrification.....13
Fair trade.....32
Farm program.....16
Farmer committees.....18
Financial management.....9
Flour.....20
Foreign trade.....1,20
Forestry.....11,27
Imports.....6
Inspection services.....10
International organizations.....9
Legislative program..15,30
Manpower utilization.....9
Margarine.....25
Minerals.....3,22
Onion futures.....17
Peanuts.....36
Personnel.....9,26,38
Reclamation.....12,24
Rep. Hill.....14
School lunch.....39
School milk.....39
Seed wheat.....19
Small business.....4,28
Social security.....34
Surplus commodities..20,39
TVA.....31
Unemployment compensation.....9
Wheat.....19
Wildlife.....37
Wool.....21

HIGHLIGHTS; House agreed to conference report to extend trade agreements authority. Sens. Aiken and Stennis urged compromise on the farm bill. Senate debated bill to revise procedures for election of CSS farmer committeemen. Senate agreed to conference report on bill prohibiting onion futures trading. Sens. Proxmire and Humphrey criticized farm program and size of USDA budget. House Rules Committee cleared area redevelopment bill. Both Houses agreed to conference report on Defense Department appropriation bill. Sen. Anderson submitted and discussed measure to reestablish acreage allotments and price support levels for 1959 upland cotton.

HOUSE

1. FOREIGN TRADE. Agreed, 161 to 56, to the conference report on H. R. 12591, to extend the authority of the President to enter into trade agreements. pp. 15170-76

2. AREA REDEVELOPMENT. The Rules Committee granted a rule for consideration of S. 3683, to establish an effective program to alleviate conditions of substantial and persistent unemployment in certain economically depressed areas. p. D814

3. MINERALS. The Rules Committee announced agreement to hold hearings on S. 4036, to provide stabilization payments to certain mineral producers. p. D814
Agreed to the conference report on S. 2069, to amend the Mineral Leasing Act so as to promote the development of coal on the public domain. p. 15186

The Clerk read as follows:

Amendment No. 55: Page 47, line 1, insert: "SEC. 634. Of the funds made available by this act for the services of the Military Air Transport Service, $84,000,000 shall be available only for procurement of commercial air transportation service; and that $21,000,000 of the $84,000,000 shall be available to be expended only with United States civil air carriers which qualify as small-business enterprises under present standards and who are in existence at the time of the passage of this act."

Mr. MAHON. Mr. Speaker, I offer a motion which is at the Clerk's desk.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 55, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"SEC. 634. Of the funds made available by this act for the services of the Military Air Transport Service, $80,000,000 shall be available only for procurement of commercial air transportation service; and the Secretary of Defense shall utilize the services of civil air carriers which qualify as small businesses to the fullest extend found practicable."

Mr. MAHON. Mr. Speaker, the other body placed a limitation in the defense bill which provided that $84 million of the funds for the Military Air Transport Service should be utilized in employing commercial aircraft for military transport.

In conference we reduced the figure from $84 million to $80 million, and we struck out language which set aside a total of $21 million for small commercial carriers. But we inserted language that the small commercial aircraft carriers should be utilized to the greatest extent practicable.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Texas.

Mr. PATMAN. Is that the provision wherein the Senate placed a 25-percent guaranty for small concerns?

Mr. MAHON. That is right.

Mr. PATMAN. And the gentleman believes the qualifying language will cause the Department to give sympathetic consideration to these small concerns?

Mr. MAHON. That is right. The Department of Defense last year, without this language, gave about one-quarter of its commercial transport to the smaller airlines. We hope they give that much or more this year, provided the small carriers have the equipment, the personnel, and the facilities to do the work, and provided they are able to get the business on a competitive basis. It has developed that the small carriers, by reason of their small overhead, are able to cut corners in many instances, and they are able to bid very successfully.

The smaller carriers are getting their pro rata part of the business, perhaps more than their part, based upon the equipment they have, and they have up to this time, insofar as I know, done a good job generally in this field of operation.

(Mr. FORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. FORD. Mr. Speaker, I have written the Honorable James H. Douglas, Secretary of the Air Force, to recommend that the Board of Meritorious Service take appropriate action to recognize the achievements of the late Capt. Iven C. Kincheloe by naming an air base, a research and development facility, or some other Air Force installation in his honor. We can all agree, I am sure, that his services to his country deserve this special recognition.

Captain Kincheloe had expected to be one of the first-time space pilots, but had already demonstrated his special worth to the United States. He not only held the American altitude record, but was a jet ace in the Korean conflict, where he flew 101 combat missions.

Captain Kincheloe was also a scientist, with degrees in mechanical and aeronautical engineering from Purdue University and from Oxford University in England.

He was a member of the National Advisory Committee on Aviation and had been assigned to attend the International Astronautical Federation meeting in Amsterdam in August as a representative of the United States.

I am confident that Captain Kincheloe represented the very best in American manhood. His courage, inquisitiveness, selflessness, and spirit of dedication are to be emulated.

I have no hesitation in strongly recommending that such a man should be memorialized by naming some Air Force installation in his honor.

Capt. Iven C. Kincheloe was a native of Michigan and his parents presently reside at Gassopolis, a small town in the southwestern part of the State.

At this point in my remarks I would like to include an editorial from the Grand Rapids Herald of July 29, 1958. It is entitled "Captain Kincheloe":

CAPTAIN KINCHELOE

No one can measure the contribution Capt. Iven C. Kincheloe made to the Nation and to aeronautics, nor the loss to his country—and science—sustained when he went down last Saturday in a flaming F-104 in the Mojave Desert.

Such men cannot be evaluated in any tangible terms.

Here was a young man of 30, already a double ace of the Korean war, with degrees in mechanical and aeronautical and mechanical engineering from Purdue and from Britain's Oxford, who had the first look into outer space and who, looking forward to pioneering in orbital flight, almost daily took the calculated risks inherent in handling the fantastically fabulous new machines mankind hopes will unlock the secrets of the universe.

He might have skipped the major risks. He chose to fly, and for his country rather than for any personal aggrandizement or private profit.

The calculated risks caught up with him. Another man will take over as Chief Project Officer of the X-15, which he had hoped to take into orbit. Still others will carry on into the interplanetary travel of which he said: "Man is going to look into this. It is his very nature to do so."

It is the nature of a few, let us say, the very small number like Capt. Iven C. Kincheloe, late of Cassopolis, Mich., who not only have the physical and mental ability, far above the average, but the courage and the inquisitiveness and the selflessness and the spirit of dedication to take the risks all too many shun. For these are exceedingly rare qualities, seldom found in combination.

Mr. Speaker, Captain Kincheloe, of Michigan, proved himself a man of valor. We trust that the Board of Meritorious Service will give earnest consideration to naming an Air Force installation in his memory.

Mr. BOLAND. Mr. Speaker, I rise in support of the national defense education bill. I feel that the time has come when private scholarship and college loan programs, which have so well served needy students of ability in the past, must be temporarily augmented by assistance from the Federal Government. The cost of higher education, at the college and graduate school levels, is constantly increasing. Many of the privately endowed colleges and universities have announced, in instituting fund drives, that they have actually been subsidizing the tuitions of paying students for a number of years. As tuitions have increased, more high-school graduates with high scholastic ability have found it difficult to finance a college education.

As the committee report states, the purpose of this bill is to encourage able students to continue their education beyond high school. This legislation, I am happy to know, embodies the scholarship loan feature of a bill I filed last year, H. R. 95. I also filed this same bill in the 83d and 84th Congresses. Similar legislation was also filed in the 82d Congress by Gov. Foster Furcolo, of Massachusetts, when he represented the Second Massachusetts District in the House of Representatives. This is the first time that hearings were held by the House Education Committee on the features of these bills and legislation reported to the floor.

Mr. Speaker, I will vote for this bill and I certainly hope that it passes.

Mr. METCALF. Mr. Speaker, one of the provisions of H. R. 13427, the National Defense Education Act of 1958, that has created widespread discussion is that part of the scholarship title relating to the selection of recipients of scholarships. Section 204 (a) provides that any individual who is a resident of the State shall be eligible for competition for a scholarship if he complies with the rules prescribed by the State commission and applies therefor, if he is not enrolled in any course of study beyond the secondary school level. Then subsection (b) declares that the State commission shall select the persons from among those competing. It is provided:

Each State commission shall select such persons to be awarded such scholarships in accordance with objective tests and other measures of aptitude and ability to pursue successfully at an institution of higher education a course of study leading to a bachelor's degree, giving special consideration to those with superior capacity or preparation in science, mathematics, or a modern foreign language.

An institution of higher education is defined in section 103 (b) and the winner of such a scholarship holds it until he receives a bachelor's degree under the provisions of section 203 if he "first, devotes essentially full time to educational work leading to a bachelor's de-

gree, during the academic year, in attendance at an institution of higher education; second, is maintaining satisfactory proficiency in the course of study which he is pursuing, according to the regularly prescribed standards and practices of the institution which he is attending; and third, is not receiving expenses of tuition or other scholarship or fellowship aid or educational assistance from other Federal sources—other than a monetary allowance under a reserve officers' training program of money paid under other provisions of this act."

At present the need is for more scientists and engineers, for people who have master a foreign language and for teachers in those fields. Many experts believe that the Federal Government, in awarding scholarships, should be selective in the field in which such scholarships are awarded. There is now a shortage of scientists and engineers qualified to work on missiles, on space programs and on atomic energy. This has created a grave crisis in our national defense. To many the only excuse for a federally financed scholarship program is the necessity to get talented boys and girls who otherwise would not attend college interested in science or mathematics in order to catch up on this shortage.

On the other hand other experts, many of whom are scientists of national repute, believe that there should be complete freedom in the individual to choose the field in which he wants to specialize. For example, Dr. Vannevar Bush, in his book, Science, the Endless Frontier, says:

> There is never enough ability at high levels to satisfy all the needs of the Nation; we should not seek to draw into science any more of it than science's proportionate share.

Mr. Steelman, in Science and Public Policy, declares:

> It would be a serious mistake, however, to establish a scholarship or fellowship program in the physical and biological sciences alone. What we require as a Nation is to extend educational opportunities to all able young people, leaving it to them to determine the field of study they desire to pursue. In normal times, freedom of choice must be allowed to operate in education, as well as elsewhere, if we are to preserve our free institutions. No agency of the Government is sufficiently farseeing—nor ever likely to be—to foretell 15 or 20 years in advance the field in which we shall most need trained people. In free competition, the physical and biological sciences will get their share.

These are not normal times, so the bill has established a middle ground. There is still freedom of choice in the individual as to which field in which he desires to specialize. The only requirements after an individual has been awarded a scholarship are those set forth in section 203. But in order to win a scholarship an applicant has to show that he has superior capacity in science, mathematics, or a modern foreign language or that his secondary preparation has given him superior preparation in those fields.

It is the belief of most persons skilled in preparatory education that with the help of other titles in the bill most of those awarded scholarships will voluntarily go into the fields in which the national need is greatest. Under the provisions of title VII which provides for guidance and counseling and testing of students, those boys and girls with superior aptitudes for science, mathematics, and language will be discovered in the elementary grades. If they have not the means to go to college they will be encouraged to take courses in high school that will better prepare them to compete for a national defense scholarship. In the seventh and eighth grades they will plan their high school courses to prepare themselves for the competitive examinations to win a college scholarship.

Title IV provides for grants to the States to strengthen science and mathematics and modern language instruction. By increased attention to these fields and by improved instruction the interest of the students will be aroused in science and related fields and with the additional stimulus of winning a national defense scholarship these high school students will turn to these fields so vital for the national welfare and will already be imbued with the desire to become scientists or mathematicians and have the foundation laid for further pursuit in those fields.

Our experience with other scholarship programs bears this out. A huge proportion every year of the winners of the national merit scholarships go into scientific fields. With the dramatic appeal of the new advanture into space and the stimulation of better instruction in the high schools more will go into these fields if by so doing they can develop their talents and have an opportunity for a college education that otherwise would have been denied them.

And for the small percentage that shift to the humanities, they, too will have benefited from their basic background in science. They will have a better understanding of the forces that affect 20th century society and in their activities in the law, in sociology, in economics, in creative writing they will be expressing the new scientific age and contributing to the strength of America.

This is the American way, by stimulation of interest we encourage our boys and girls to voluntarily embark upon professional pursuits that promote the public welfare instead of by regimentation and force require our talented young people to take up reluctantly courses of study in order to get to college.

The SPEAKER. The question is on the motion.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that those speaking on the conference report or these amendments may have permission to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. BROWN of Georgia. Mr. Speaker, I call up the conference report on the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the conference report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 6, 1958.)

Mr. BROWN of Georgia. Mr. Speaker, the House conferees on the Small Business Investment Act have brought back to the House a conference report which retains the two essential features of the House bill. There were 7 other substantive amendments in conference; of these 7, the Senate receded on 6 and the House on 1.

The most important question in conference was whether this program is to be financed with public debt transactions or with appropriations. On this question, the Senate has receded, and the bill agreed to in conference will be financed through appropriations. While this is not to be taken as a precedent concerning the jurisdiction of the legislative committees of the two Houses to authorize financing through public debt transactions, there are good reasons in this bill to provide for appropriations; this method will conform to other SBA programs which are financed through appropriations and there is every reason to expect that appropriations will be made available this year for this new program.

The second major issue in conference was whether the Small Business Administration should be authorized to charter small-business investment companies to operate under the bill. The Senate bill provided for a dual system, under which both Federal and State charters could be granted in any State until June 30, 1961, when the authority for Federal chartering would expire. The House struck this authority for Federal charters out of the bill, in order to preserve the traditional State powers over chartering business corporations. In conference, a compromise was reached which I feel should satisfy those of us who strongly believe in protecting the powers of the States against Federal encroachment, and at the same time allow sufficient flexibility to permit effective operations under the program in any State whose laws would not permit effective operation of State-chartered investment companies under this act. Under the conference agreement, Federal chartering of these companies would be permitted only where the Small Business Administrator makes a positive finding that investment companies cannot be chartered under the laws of the State and operate in accordance with the purpose of this act.

The other five House amendments to which the Senate conferees have agreed are more or less technical in nature, and I will not take the time of the House to discuss them.

The remaining House amendment struck from the Senate bill a provision authorizing the use of certain funds remaining from an old Federal Reserve bank loan program to make grants for studies, research, and counseling to help small businesses. Because this new program could meet a pressing need for better management counseling for small-business concerns, and because it will not require any new appropriations, the conferees agreed to include it in the bill.

I am confident that the bill as agreed to in conference is a good bill. It will fill a longstanding gap by supplying long-term credit and equity capital for small businesses, and I urge the House to approve the conference report.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from Indiana.

Mr. HALLECK. Mr. Speaker, I have studied the conference report on S. 3651. On July 23 I introduced amendments recommended by the American Bar Association which were designed to preserve the historic and traditional powers of the States over the incorporation of business enterprises and to prevent encroachment of the Federal Government in this field.

The spirit of these amendments, I believe has been adhered to in the bill as reported from conference. The bill clearly calls for and prefers State incorporation of the small-business investment companies. Only under the most extraordinary circumstances shall the Small Business Administration permit or authorize Federal incorporation. Federal incorporation would be possible only under circumstances where there has been an affirmative determination by the Administration that a small-business investment company cannot possibly operate under the laws of a given State in such a way as to fulfill the clear and dominant purposes of the act. This restriction against Federal incorporation must be regarded as a stringent one. And, it must be recognized that it is the intent of Congress, as expressed in this bill, to favor State rather than Federal incorporation of business enterprises, including these small-business investment companies as provided in this bill.

Mr. Speaker, I commend the conferees for the work they have done on this conference report, and I hope that the conference report is adopted.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from Texas.

Mr. PATMAN. I am glad the gentleman from Indiana [Mr. HALLECK] is pleased with the conference report. I, too, think it is a good report.

SMALL BUSINESS LEGISLATION IN THIS CONGRESS RAISES NEW HOPES; SMALL BUSINESS INVESTMENT ACT OPENS NEW FRONTIERS

Mr. Speaker, the prospects for small business have been dark for several years now. The trend toward a weakened and disappearing community of small firms in our economy has been most disturbing.

But the awakened interest which this Congress has shown in the problems of small business, and the actions it has taken to correct these problems, have been most encouraging. It now looks that when this Congress adjourns it will have made the best record for small business legislation of any Congress in history.

We have already passed legislation which makes the Small Business Administration a permanent agency of Government. This legislation also increased the amount of a loan which the SBA can make from $250,000 to $350,000. This has been signed by the President.

The House has passed a small business tax revision bill, H. R. 13382. And yesterday, the Senate Finance Committee ordered this bill reported favorably on Monday of next week. The bill does not provide for a general tax reduction for small business; it does not provide for a better equalization of the burden of business taxes which falls on small firms, such as were provided for in bills introduced by me and by several other Members of our Small Business Committee. But the bill does make some substantial technical adjustments which will be greatly helpful to small business. Considering that we are in a period when general tax reductions cannot be made, it is a good bill. We have good reason to hope that the Senate will pass it.

We also have reason to hope that before this Congress adjourns we will have an opportunity to pass two bills that will plug certain loopholes in our antitrust laws which are now operating to destroy thousands and tens of thousands of small firms unfairly, and without reasonable cause. One of these, S. 11, will give small firms in certain industries better protection against monopolistic discriminations in price. This bill has been reported by the Senate Committee on the Judiciary and it seems probable that the Senate may act on it before adjournment. The House passed a similar bill, but one which extended the same protection to small business in all industries in 1956 by a vote of 393 to 3. I have no doubt that the House would pass overwhelmingly the S. 11 today, if given a chance to do so. I have a similar bill, H. R. 11, in the House which would be passed immediately if and when S. 11 passes the Senate.

In addition, the House Committee on the Judiciary has held hearings on a bill which will plug a new loophole which was found to exist in the antidiscrimination laws by a decision of the Supreme Court just this year. This bill, H. R. 10243, would extend to the person who is injured by a violation of the criminal antidiscrimination law the same right to sue and recover damages that is accorded to a person who is damaged by a violation of the civil antidiscrimination law. This bill has been approved by the Department of Justice, by the Federal Trade Commission, and by the Small Business Administration. Accordingly, there is good reason to hope that we will have a chance to act on this bill. If this is so, I believe that the House will approve it quickly and overwhelmingly.

LETTERS OF APPRECIATION

The following is typical of the letters received by the members of the House Small Business Committee, the committee and myself in appreciation of the work we have done for the cause of small business:

COMMUNITY MERCHANTS BUREAU,
Houston, Tex., August 2, 1958.

Hon. WRIGHT PATMAN,
House of Representatives,
Washington, D. C.

MY DEAR MR. PATMAN: The 85th Congress really seems to be doing things that will help small-business men help themselves.

This was clearly stated in Sylvia Porter's article in the July 31, 1958, issue of the Houston Post, and she gave you credit for fighting hard for the new system of local investment companies designed to assist small concerns with some of their financial problems. I hope the bill passes.

Now that the Small Business Administration has permanent status, with authority to make loans at a lower rate of interest, a larger number of "smalls" may be able to survive until they can find ways and means to increase their sales volume.

The tight money—high interest situation was not of their making, but they have suffered much in varying degrees.

Some relief from high tax rates is certainly due and will be most beneficial at this time.

You and your colleagues deserve, and I am sure, will receive much applause and many expressions of appreciation from your many constituents. I wish to add mine, and say thanks for your untiring efforts on behalf of the "smalls."

Sincerely yours,

W. R. FREEMAN,
Owner-Manager.

SMALL BUSINESS INVESTMENT ACT IS MOST IMPORTANT

Finally, the conference report on the Small Business Investment Act which is before the House now is the most important of all.

This legislation has raised high hope for small business. This Small Business Investment Act may well mark a turning point for small business in this country. It could be the beginning of a reversal of the recent trend toward the disappearance of small business in this country and the trend toward giant collectivisms in business.

I do not believe that it is necessary to discuss all of the details of the legislation again. These were thoroughly discussed when we debated the bill just 2 weeks ago, on July 23. At that time the House overwhelmingly approved this legislation.

In brief, the legislation will give small firms better access to capital than they now have. It will do something for small business along the lines that the centralized stock and bond markets do for big business.

What is the problem?

This has previously been explained in my language; it has been explained in the language of our Small Business Committee's report; it has been explained in the language of the Federal Reserve Board; and it has been explained in the language of countless small-business people. Let me explain it again then

by reading a few paragraphs from Miss Sylvia Porter's column which appears in the Washington Evening Star today. Miss Porter is a brilliant economist, with a great deal of experience inside and out of the financial houses of Wall Street, and she has a genius for putting complex economic matters in terms which are understandable and interesting to all of us. In her column today she writes about this legislation, saying:

MISS SYLVIA PORTER CALLS IT A TURNING POINT

NEW LOAN SYSTEM FOR SMALL FIRMS

The banks of this Nation are not designed or organized to provide risk capital or long-term loans for small-business firms. This the American Bankers Association readily admits.

The capital markets of this Nation also are not set up to provide growth capital at tolerable cost for small firms. This the Investment Bankers Association readily admits.

Nor are the existing business-loan programs of the Federal Government and some of the States geared to do an adequate job of meeting small-business needs for capital with which to expand and grow. Lending activities of Government agencies are comparatively meager; restrictions on their operations just about prohibit the agencies from making the type of loans small-business men so desperately seek.

For years, a dangerous vacuum has existed in the financing system of this country and because of the vacuum, the position of the small-business man in America has steadily deteriorated.

For years, a force toward business giantism in the United States has been the money squeeze on small firms and because small firms have simply had no place to go for adequate long-term financing, increasing numbers of them have shriveled and died.

* * * * *

A turning point for small business will be reached when the Small Business Investment Act of 1958 goes on the books, as is anticipated any day.

A PRIVATE ENTERPRISE SOLUTION TO A BIG NEED

Now this is the important point we must bear in mind. What this legislation does is help to get started private-enterprise organizations which will do the work of financing small firms. These small business investment companies will decide which small firms will obtain financing through this program. They will decide which firms show good profit prospects and are good risks for equity capital. They will decide which firms are credit-worthy to receive loans. The small business investment companies to be formed under this bill will be making risk-taking decisions; and for that reason they will have to back their decisions by a large proportion of their own money. This is the main feature of the legislation. It goes to the very heart of the problem. It meets the need which is not now being met.

In other words, the great unmet financing need for small business is not in loans of the type which the commercial banks can make; and it is not in loans of the type which the SBA can now make. The unmet need is first and foremost for risk capital—in other words, for risk capital that will share in the profits of the small firm, if there are profits, and will share in the losses, if there are losses.

And the second need, which is almost equally as great, is for long-term loan capital.

NEEDS CANNOT NOW BE MET BY SBA OR COMMERCIAL BANKS

These needs can never be met by commercial banks; and they can never be met by a Government agency.

When a Government agency makes loans or advances capital to business concerns, it must have, necessarily, such standards that all applicants will be treated equally. We would not want it any other way. But this leaves no room for venturesome, risk-taking decisions. The necessary result is that the standards are loan standards and they go to the question whether the loan is secured by tangible assets which would cover the loan in a distress sale. Commercial bank loans must pretty much meet the same standards, or be for short terms and be in very small amounts relative to the assets of the company borrowing the money.

This is good legislation. It is legislation which, for the first time, really comes to grips with the financing problems facing small business.

The small-business investment companies will be formed voluntarily. They will be private citizens, not Government employees. Ten or more people can form one of these companies. If the company is approved by the SBA, it can begin business on $300,000 of capital. Half of this must be private capital and the other half can be obtained from the SBA. The small-business investment company can then raise additional capital from private sources; and it may, in addition, apply to SBA for a loan which will not exceed 50 percent of the paid-in capital and surplus. Such a loan must, however, meet SBA's requirements, and it must be secured by top priority claim on the assets of the investment company.

The small-business investment company may then make either a loan to a small firm, for periods up to 20 years, or it may take convertible debentures in the small-business concern in return for its loan. In this case, the investment company has the option of converting these debentures into stock shares in the small-business concern. The limitation is that an investment company cannot use more than 20 percent of its paid-in capital and surplus to finance any one small-business concern.

So, the bill provides for just what is needed. If before this Congress adjourns we can make the necessary revisions in the Internal Revenue Code, which were contained in the bill, H. R. 12064, as originally introduced by me in the House, and as were originally in the Senate bill, there should be a definite encouragement for the organization of these small-business investment companies to get underway immediately. These tax provisions are now in H. R. 8381 which I understand was reported by the Senate Finance Committee yesterday. I understand further that the Ways and Means Committee of the House has agreed to these tax revisions, so we should have an opportunity to complete this legislation during this Congress. The problems of small firms all over the Nation are very grave, and the program provided for in this legislation cannot be put into practical operation a year, a month, or a minute too soon.

WILL STRENGTHEN STATE AND LOCAL DEVELOPMENT COMPANIES

In addition, there are provisions in the bill whereby SBA can make loans to State development companies. These State development companies have been the pioneers in the effort to solve small-business financing problems, and the mere fact that these State development companies have survived at all, is a considerable mark of success. They will be encouraged and strengthened under the bill. Furthermore, under this program the SBA can make certain types of loans to either State or local development companies. These loans will be made for relending to specific small-business concerns, and they will have to meet the standards for the types of loans which SBA now makes.

CONFERENCE COMMITTEE ACCEPTED MOST OF THE HOUSE AMENDMENTS

The conference report accomplishes all of the purpose of the bill which the House passed, and the Senate conferees have agreed on substantially all of the House amendments which were of any substance.

First and foremost the conferees have agreed to the amendment which the House committee put into the bill to require that funds for this program be appropriated, rather than being borrowed from the Treasury. The Appropriations Committee will, therefore, have control and have the final say.

On one substantive difference between the House and Senate versions of the bill, the conferees have agreed with the Senate version. The bill as passed by the Senate contained a provision—in section 601—which repealed section 13 (b) of the Federal Reserve Act which gives authority to the Federal Reserve banks to make working-capital loans to business concerns. In addition, another provision of the Senate bill—in section 602—provided that the funds remaining in Federal Reserve's section 13 (b) authority would be used to finance a new program of grants, studies, research, and counseling of small business under the Small Business Act.

There has been no difference of opinion about repealing the Federal Reserve's lending authority under section 13 (b). The Federal Reserve Board has requested that this be done. The difference between the Senate bill and the House bill had to do only with the disposition of the funds remaining in this authority. The House Committee on Banking and Currency struck the Senate's provision to authorize these funds to be used for research and counseling and substituted a provision that these funds would be paid into the Treasury.

MANAGEMENT COUNSELING FOR SMALL BUSINESS

The conference agreement retains the provision of the Senate bill, with technical amendments. So, the conference report contains an added authority for helping small business. This is good. Most of us will, I think, be pleased with this additional help for small business. The grants which SBA can make from these funds to promote management

counseling for small firms will assist in filling an important need. The SBA people have felt that the inadequacy of such counseling constitutes one of the most serious handicaps which many small firms face.

Now as to the Halleck amendment, which was adopted on the floor of the House, the conferees have agreed to this but have added saving language which carries out the wishes which the author of the amendment expressed at the time the amendment was debated.

As will be recalled, as the bill was reported by the House committee, it gave the Small Business Administration two authorities with respect to chartering the small business investment companies.

First, the SBA was to have a 3-year authority in which it could charter small business investment companies; after 3 years any newly chartered companies would have to be chartered by the States.

Second, SBA could recognize and do business with small business investment companies chartered by the States, provided, of course, the companies otherwise met SBA's standards.

OVERCOMES OBJECTION OF AMERICAN BAR ASSOCIATION

But according to information presented by the distinguished gentleman from Indiana [Mr. HALLECK] while we were debating the bill, the American Bar Association objected to the SBA's having authority to charter any investment company—during the next 3 years, or at any time. Consequently, the amendment which the House adopted removed that authority. The House bill then required that any small business investment company, to be eligible to operate under this program, had to be chartered under State law for the purpose of operating under this program.

There is some doubt, however, whether existing law in all of the States is such that the small business investment companies contemplated by the legislation could be chartered.

Consequently, the conferees have agreed to retain the substance of the Halleck amendment, but added certain saving language to this effect: Where the SBA determines that the law of the State does not permit the chartering of an investment company to operate in accordance with the purposes of the act, the SBA may issue charters in such cases. This authority is limited to 3 years however. This means that those States which do not have laws that allow them to take full advantages of this legislation—if there are such States—will have 3 years in which to bring their laws into line, if they care to do so. After 3 years, SBA will not have authority to issue charters in any of the States, under any circumstances.

These are the changes of substance which the conferees have made in the bill which the House passed so overwhelmingly 2 weeks ago. It is a good bill. It will open new frontiers for small business. I hope that the House will accept the conference report.

(Mr. PATMAN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. TALLE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from Iowa.

Mr. TALLE. Mr. Speaker, I urge the adoption of this conference report, and I commend the conferees for the good work they have done.

The bill reported by the Banking and Currency Committee and passed by the House was a measure that had received thorough consideration. The committee was aware of the fact that this was pioneer legislation and required the careful thought that was given to it.

I express the hope, and it is my conviction, that as the years pass this legislation will prove to be beneficial to our country.

Mr. McDONOUGH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from California.

Mr. McDONOUGH. As an associate conferee and a member of the House Banking and Currency Committee with the gentleman from Georgia [Mr. BROWN] I approve this conference report. The Senate yielded in most instances to the House bill, so we have evidently written a better bill than they did. I hope the conference report will be adopted.

TODAY MARKS A HOPEFUL TURNING POINT FOR SMALL BUSINESS

Mr. ROOSEVELT. Mr. Speaker, Miss Sylvia Porter has devoted her entire column to the Johnson-Patman bill, which, when passed, will be known as the Small Business Investment Act of 1958. Needless to say, since Miss Porter is an acute analyist of business problems, she hails this legislation as a "turning point" for small business.

Both the Senate and the House passed this bill earlier in the session, and today the House has just taken a wise and important step in accepting the conference report on this bill. The bill is now well on its way to passage; we may even hope that the Senate will accept the conference report before the day is over.

As chairman of the Subcommittee on Distribution of the House Small Business Committee during the past 4 years, I have had the experience of dealing with the problems which are directly faced by the overwhelming majority of small-business firms. These are, in short, the problems which are real and immediate to the retail firms, the wholesale firms and other firms making up the "distribution" phases of American business, and these make up a large majority of all small firms in the country.

And everywhere I have turned, this problem of the small firm obtaining financing has been acute and most serious. Consequently, after these close, personal experiences, I cannot help feeling some considerable pride and satisfaction in having had a hand in this small-business legislation.

I was happy to participate in drafting, and in introducing as coauthor, the predecessor bill to the one which the House has just passed today. This was known as the small-business capital bank bill which set out, I think, the principles and the guidelines which seemed to me best suited to meet the problem of small-business financing. It is gratifying that the legislation we have passed today did not lose sight of these principles and these guidelines. They are important. It is important to assist free enterprise to do the small-business financing job; not merely to set up or expand a Government bureau. It is important that the new financing system become profitable, self-sustaining, and independent, so that it can be cut loose from political control in Washington as quickly as possible. Only this will lead to a permanent solution of the problem that we are trying to solve.

In some respects, I think the small-business capital bank bill as we originally introduced it would have been preferable. However, it became apparent that some of the administration leaders objected to setting up a new system of small-business financing outside the control of the Small Business Administration. Accordingly, I believe that the distinguished majority leader of the Senate, Senator JOHNSON, and our own distinguished Small Business Committee chairman, WRIGHT PATMAN, were wise in introducing a substitute bill which puts control of the new system in the SBA.

The question now is, will the SBA handle this program wisely and develop it with the vigor and vision which has gone into the legislation itself. It is on this point that Miss Porter expresses a reservation about the new program. She ends her column today with this statement:

> Of course, much depends on how vigorously the SBA administers the program and on how enthusiastically local investors cooperate.

Local investors will undoubtedly cooperate, and cooperate enthusiastically, if SBA provides prompt and dynamic leadership. I hope SBA will provide that leadership; I like to believe that it will. It holds a large part of America's future in its hand.

For the interest of the other Members, I would like to insert the full text of Miss Porter's column, today, which is as follows:

YOUR MONEY'S WORTH

(By Sylvia Porter)

NEW LOAN SYSTEM FOR SMALL FIRMS

The banks of this Nation are not designed or organized to provide risk capital or long-term loans for small-business firms. This, the American Bankers Association, readily admits.

The capital markets of this Nation also are not set up to provide growth capital at tolerable cost for small firms. This, the Investment Bankers Association readily admits.

Nor are the existing business-loan programs of the Federal Government and some of the States geared to doing an adequate job of meeting small-business needs for capital with which to expand and grow. Lending activities of Government agencies are comparatively meager; restrictions on their operations just about prohibit the agencies from making the type of loans small-business men so desperately seek.

For years, a dangerous vacuum has existed in the financing system of this country and because of the vacuum, the position of

the small-business man in America has steadily deteriorated.

For years, a force toward business giantism in the United States has been the money squeeze on small firms and because small firms have simply had no place to go for adequate long-term financing, increasing numbers of them have shriveled and died.

Now, though, a move is being made to fill this vacuum—as a result of the long efforts of Senator SPARKMAN, Democrat, of Alabama, and the devoted work during this congressional session of Senator JOHNSON, Democrat, of Texas, and Representative PATMAN, Democrat, of Texas.

A turning point for small business will be reached when the Small Business Investment Act of 1958 goes on the books—as is anticipated any day.

Question. What does the act provide?

Answer. It provides that Congress will appropriate $250 million for the Small Business Administration for use in promoting the formation of local small business investment companies the Nation over. These companies are to help small firms get risk capital and long-term loans.

Question. How will the local investment companies be set up and financed?

Answer. A group of as few as 10 local businessmen can voluntarily form an investment company with the approval of the SBA. To start, the company must have a minimum of $300,000 of capital, but half of this it can get from the SBA. The other half must be raised from private sources and the company can obtain additional capital from private sources as well.

Question. What will the investment companies do for small firms?

Answer. A local investment company may invest risk capital directly in a small firm—actually arrange to buy stock in the firm; or

It may make a long-term loan running up to 20 years, at an interest rate determined by the SBA to the firm.

The only key limitation is that the investment company can't lend an individual small business more than 20 percent of its total capital.

Of course, much depends on how vigorously the SBA administers the program and on how enthusiastically local investors cooperate.

Mr. MULTER. Mr. Speaker, I do hope that S. 3651 as brought back by the conferees will do the job that the bill sets out to accomplish.

When I objected to an amendment in the Committee of the Whole that struck out the provision for national charters, I made it clear that I did not impugn the sincerity or motives of the distinguished gentleman from Indiana [Mr. HALLECK]. The result of the conference shows that he was right about improving the amendment and at the same time proves me right.

I urged that national chartering be continued in the bill because it was in strict consonance with the principle of a dual banking system.

I hope that the new language now in the bill will help bring that about.

The purpose of this new language is to make certain that the SBA will have the discretion to grant national charters whenever and wherever it appears that a small business investment company cannot operate under State law. That does not merely mean that the company can be chartered under State law. It means that the State law and its interpretation and enforcement will permit such companies to operate fairly and profitably. If State law or the administration thereof unduly restricts or impedes such operation, whether by burdensome taxation or otherwise, the Administrator may issue a national charter.

I trust that SBA will interpret and implement the statute liberally with a view to bringing to small business the financial assistance that has been lacking for too long.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BROWN of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend in the permanent RECORD on the bill S. 3651 immediately before the adoption of the conference report and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PROMOTE THE DEVELOPMENT OF COAL ON PUBLIC DOMAIN

Mr. ROGERS of Texas. Mr. Speaker, I call up the conference report on the bill (S. 2069) to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of coal on the public domain, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 6, 1958.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ANTIDUMPING ACT, 1921

Mr. MILLS. Mr. Speaker, I call up the conference report on the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 1, 1958.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

(Mr. MILLS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLS. Mr. Speaker, as it pointed out in the statement of the managers on the part of the House, under section 201 (a) of the Antidumping Act, 1921, whenever the Secretary of the Treasury determines that a class or kind of foreign merchandise is being—or is likely to be—sold in the United States or elsewhere at less than its fair value, he is required to so advise the United States Tariff Commission. Within 3 months thereafter the Tariff Commission is required to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. After such investigation as it deems necessary, the Tariff Commission is required to notify the Secretary of the Treasury of its determination.

The Senate amended the House bill by adding a provision under which, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if first, the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or the negative; or, second, the said Commission shall fail to make a determination within the said 3 months' period.

Under the conference agreement, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or the negative.

(Mr. REED asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED. Mr. Speaker, I support the adoption of the report of the managers on the part of the House in the conference on H. R. 6006.

This legislation would make important improvements in the Antidumping Act of 1921 as amended. The Senate in acting on the House-passed version of this legislation provided two substantive amendments to the bill. These amendments relate to the provision of the law that requires the Tariff Commission within 3 months to determine whether a domestic industry is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of merchandise into the United States under circumstances of dumping. The 3-month period begins to run by notification to the Tariff Commission by the Secretary of the Treasury that foreign merchandise is being sold in the United States at less than its fair value. The two Senate amendments would have provided, first, that in instances where the Commissioners of the Tariff Commission are evenly divided as to whether an injury determination should be made in the affirmative or in the negative, the

 Senate - Aug 7, 1958

Agreed to the conference report on S. 2069, to amend the Mineral Leasing Act to promote the development of coal on the public domain. This bill will now be sent to the President. p. 15164

23. APPROPRIATIONS. Agreed to the conference report on H. R. 13015, the military construction appropriation bill for 1959. This bill will now be sent to the President. pp. 15148-53

24. DESERT-LAND ENTRIES; RECLAMATION. Adopted S. Con. Res. 112 and S. Con. Res. 113, to request the President to return enrolled bills S. 359, to permit desert land entries on disconnected tracts of land up to 320 acres, and S. 4002, to authorize the Grey Reef dam and reservoir as part of the Glendo unit, Missouri River Basin project, to be reenrolled with certain language changes. p. 15130

25. MARGARINE. The Armed Services Committee ordered reported with amendment H. R. 912, to amend the Navy ration statute to permit the serving of oleomargarine and margarine. pp. D810-11

26. PERSONNEL. The Post Office and Civil Service Committee ordered reported without amendment H. R. 1168, to restore the pay of officers or employees to the level of the grade held before downgrading in certain cases. p. D811

27. FORESTRY. Sen. Clark called attention to forestry expansion in Pa., and inserted two articles on the development of the paper industry there. pp. 15135-6

28. SMALL BUSINESS. Agreed to the conference report on S. 3651, the Small Business Investment Administration bill. This bill will now be sent to the President. pp. 15159-61

Sens. Thye, Sparkman, Mundt, and Bridges discussed passage of the small business tax revision bill, and Sens. Mundt and Bridges commended the efforts of Sen. Thye for small business. pp. 15156-9

29. ECONOMIC SITUATION. Sen. Martin, Pa., asserted that inflation can only be solved by a mechanism to tie wage increases to productivity gains and stated that the addition of price stability as a goal to the Employment Act of 1946 would be of little value in securing confidence in the Government. pp. 15161-2

30. LEGISLATIVE PROGRAM. Sen. Mansfield announced the addition of S. 4146, to provide incentive payments to producers of strategic minerals, and S. 4162, to amend the Defense Production Act to increase the amount of the loan fund, to the list of bills for consideration on Fri., Aug. 8. He stated there would be no session on Sat., Aug. 9. A call of the Calendar was ordered for Mon., Aug. 11. pp. 15156, 15166

ITEMS IN APPENDIX

31. TVA. Extension of remarks of Rep. Dooley opposing S. 1869, which would authorize TVA to issue and sell bonds to assist in financing power programs. pp. A7102-3

Extension of remarks of Rep. Byrne opposing this bill, favoring the omnibus rivers and harbors bill and the St. Lawrence seaway. pp. A7104-5

32. FAIR TRADE. Rep. Alger inserted "pertinent" remarks on the proposed fair trade bill made by Robert A. Bicks of the Justice Department's Antitrust Division. pp. A7118-9

14. REP. HILL. Several Representatives paid tribute to the service of Rep. Hill, ranking minority member of the Agriculture Committee, who is retiring from Congress after this session. pp. 15223-25

15. LEGISLATIVE PROGRAM. At the request of Rep. McCormack unanimous consent was granted for consideration of bills under suspension of the rules Mon., Aug. 11. Rep. McCormack announced that "as far as the House is concerned, we could clean up our business pretty much in the next 10 days, the next week, probably, but the next 10 days, anyway." He also announced that the private calendar will be called Wed., Aug. 13. p. 15169

SENATE

16. FARM PROGRAM. Sen. Stennis stated that defeat of the farm bill in the House might have an adverse effect on cotton, and urged that those concerned meet with Secretary Benson in an effort to reach some agreement. Sen. Aiken agreed and said he would favor calling Congress back into special session on the cotton problem if legislation were not agreed to before adjournment. pp. 15137-8

Sens. Proxmire and Humphrey criticized Secretary Benson for the present farm program and asserted that it was hurting the farmer while "wasting the taxpayers' money" due to alleged inefficiencies in operating the program. pp. 15143-5

Sen. Proxmire analyzed the bills he has introduced in this session and asserted that, if enacted, they would result in $700 million net savings, including $1 billion from adoption of S. 2952, his general farm bill. pp. 15139-43

17. ONION FUTURES. Agreed to the conference report on H. R. 376, to prohibit trading in onion futures. The report reduces the maximum penalty for violation from $10,000 fine plus inprisonment to $5,000, and retains onions under the jurisdiction of CEA. p. 15133

18. FARMER COMMITTEES. Began debate on S. 1436, to amend the Soil Conservation and Domestic Allotment Act to revise the procedures governing the election of farmer committemen and the administration of the farm program by the committees. Sens. Proxmire and Humphrey urged enactment of the bill in order to strengthen local controls over farm programs. pp. 15161, 15164-6

19. SEED WHEAT. Passed without amendment H. R. 11581, to remove wheat for seeding purposes which has been treated with poisonous substances from the unfit for human consumption category of Sec. 22 of the Agricultural Adjustment Act of 1933. S. 666, a similar bill, was indefinitely postponed. This bill will now be sent to the President. pp. 15133, 15153

20. SURPLUS COMMODITIES; FOREIGN TRADE. Passed without amendment H. R. 13268, to authorize CCC to purchase flour and cornmeal for donation instead of being limited to having such products processed from its own stocks. S. 3858, a similar bill, was indefinitely postponed. The House report was printed in the Record (pp. 15153-5). This bill will now be sent to the President. p. 15155

21. WOOL. Sens. Mansfield and Neuberger urged extension of the National Wool Act. pp. 15163-4

22. MINERALS. Agreed to the House amendment to S. 3817, to encourage exploration for minerals in the U. S. This bill will now be sent to the President. p. 15139

Because she is the only lady in the Senate, MARGARET CHASE SMITH is almost a household name. But how many people outside New England realize that Maine has another extremely effective Senator in FREDERICK G. PAYNE?

These, then are my selections for Senators Anonymous—HAYDEN, MURRAY, THYE, YOUNG, AIKEN, and PAYNE. The first 2 are Democrats, the remaining 4 Republicans.

You may have remarked the absence of southerners from my anonymity team. No southern Senator can be really anonymous in this period of civil-right strife. He can't help being caught up and publicized by controversy. The one who comes the closest to making the squad is A. WILLIS ROBERTSON. Maybe you didn't know that Virginia had a Senator besides HARRY F. BYRD.

Far and away the most powerful man in the Senate is Arizona's 80-year-old HAYDEN. He's been in Congress longer than any man in history—a year longer than the rather extensively publicized Speaker SAM RAYBURN.

An illustration of how HAYDEN is sought after: At the beginning of this 85th Congress, Senator DENNIS CHAVEZ, of New Mexico, was notified that seniority entitled him to a desk in the front row. CHAVEZ asked just one question:

"Where is CARL going to sit?"

"In the next to last row," he was told.

"That's where I sit, too," declared CHAVEZ.

I have many, many, more things to tell you about my team of Senators Anonymous, but they can't all be crowded in here. I will regale you with more about the silent squad in a subsequent column.

[From the Washington Post and Times Herald of July 8, 1958]

"ANONYMOUSELIKE" HAYDEN

(By George Dixon)

I began discussing the matter of less publicized Senators in a previous piece, but got so wound up I couldn't get it all in one column. This is a piece I've been wanting to do for a long time, and have amassed an overwealth of material. Here goes for more on the subject:

As I pointed out, the most powerful, but in some ways, the least known Senator is CARL HAYDEN, of Arizona. He is the dean of the Senate, but manages to remain almost as anonymous in Washington as the rest of the country.

He is a soft-spoken man, but every time his name gets in the press he shouts. When he sees any mention of himself, even the most laudatory, he summons his staff, and bellows:

"Who in hell told 'em this?"

I asked Senator HAYDEN why he shuns the limelight. He replied that he made up his mind to stay in the background his first week in Congress—which was 46 years ago. He said his decision was cemented by a now long-departed Senator—whose name HAYDEN says he can't even remember—who took him aside and said:

"Young feller, you've got a choice—either be a workhorse or a showhorse."

HAYDEN is the captain of my team of Senators Anonymous.

My No. 2 anonymouse-like solon is Senator JAMES E. MURRAY, of Montana. He is the fourth-ranking Member of the Upper House of Congress. He is 82, and chairman of the potent Interior Committee. His philosophy of reticence is best illustrated by this:

MURRAY told his office staff a while back that he was violently opposed to a mining program advanced by Secretary of the Interior Fred A. Seaton. The staff figured this was a heaven-sent opportunity for a Democrat to sock the Republican administration.

The staffers got together like fiery dragons and prepared a rip-snorting, sure-to-grab-headlines speech for MURRAY to deliver on the Senate floor.

MURRAY rendered his helpers morose for days. He tossed the brimstone speech in the wastebasket, saying apologetically:

"Aw, I don't talk like that."

My No. 3 anonymouser really has had to dodge purposefully to keep out of the limelight glare because he was twice elected Governor of Minnesota before he came to the Senate, and Minnesota former Governors have a habit of making themselves known to the Nation. I'm sure you have heard of Harold Stassen. But 62-year-old EDWARD J. THYE has made almost a fetish of keeping in the shade.

He is far from taciturn, however. He is approachable at all times. He spent more than 2 hours explaining his philosophy of reticence to me.

"My experience has been," he told me, "that a Senator can be five times as effective in a quiet corner, or a committee chamber, as on the Senate floor. More good legislation is delayed, defeated, or distorted by fanfaring than by any other agency.

"Give me 20 minutes in the corner of a cloakroom with a reasonable Senator—of whom there are many on both sides of the political aisle—and I can do more to win him around to my way of thinking than I could with a 24-hour filibuster."

THYE seems to have proved this. As a member of the Appropriations Committee he has gotten increased funds for cancer, heart, and cerebral palsy research, without receiving very much public credit.

He is now in a tough fight for political survival. The Democrats have put the vigorout, 42-year-old, Representative EUGENE J. MCCARTHY up against him for his Senate seat.

But THYE isn't even making much noise in his campaigning. He hasn't even pointed out that a victory for his opponent will mean another MCCARTHY in the Senate.

I've run out of space again without finishing with my Senators Anonymous. I'll conclude it tomorrow.

Mr. BRIDGES. Mr. President, I desire to associate myself with the well deserved tribute paid to the senior Senator from Minnesota [Mr. THYE] by my friend and colleague, the senior Senator from South Dakota [Mr. MUNDT].

Big ED THYE, as his friends affectionately call him, is one of the hardest working and most effective Senators of this body. The people of Minnesota appreciate this because when they sent him here to represent their State for his second term, they elected him by the largest total vote ever given a candidate from Minnesota for the Senate from that State. And he led the Republican ticket both in total vote and percentage. I am sure that he will repeat this victory in 1958.

As a fellow member with Senator THYE on the Appropriations Committee, I can vouch for the fact that not only is he a most effective member of the Committee, but his subcommittee assignments are extremely important. They cover a wide range of governmental activities from soil conservation and forestry to the Defense Department, Labor, Public Works, and Health, Education, and Welfare.

FRIEND OF SMALL BUSINESS

Small business never had as great a friend as it has in ED THYE. He fought for the Small Business Administration and finally this year, he saw his work crowned with the giving of that Administration a permanent status.

Senator THYE has a long record of firsts since he has been a Member of the Senate. He was the author of the first mandatory supports for dairy products. He was coauthor of Public Law 480, authorizing the sale of surplus farm products to foreign countries and also the originator and coauthor of the Soil-Bank plan. He is the author of the Thye-Mundt family farm bill designed to strengthen the position of the Nation's family farms. He was instrumental in establishing what is now known as the Farm Home Administration.

ONE OF FATHERS OF SCHOOL MILK PROGRAM

It was he who introduced legislation to establish and continue the school-milk program and to increase appropriations for school-lunch programs. He was responsible for the Thye amendment to the Mutual Security Act concerning international cartels and artificial trade barriers. This amendment helped prevent world monopoly of various products by a single company or group of companies which could have maintained a stranglehold over vital materials and foodstuffs. A list of his accomplishments is long and varied.

ED THYE is not a bombastic individual, he accomplishes more in his quiet way and by being on the job representing not only the good people of his State of Minnesota, but also fighting for what he believes is the best welfare of all citizens of the United States.

With a record like that—with his diligence—with his outstanding abilities—we are looking forward to having him working side by side with us for the next 6 years.

AVAILABILITY OF EQUITY CAPITAL AND LONG-TERM CREDIT FOR SMALL-BUSINESS CONCERNS—CONFERENCE REPORT

Mr. CLARK. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JAVITS in the chair). The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of August 6, 1958, pp. 15042–15043, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CLARK. Mr. President, I am pleased to recommend that the Senate approve the action of the conference committee on S. 3651, the Small Business Investment Act of 1958. In my opinion, this bill represents one of the most important actions of the 85th Congress. It will enable the formation of private small business investment com-

panies to help supply long-term debt and equity-type capital to small-business concerns. The bill also authorizes loans to State and local development companies and authorizes Federal grants for studies, research, and counseling relating to managing, financing, and operating small-business concerns.

The bill was explained and discussed at length when it passed the Senate on June 9, 1958. Consequently, my remarks will be devoted primarily to changes agreed to by the conference committee. Although the Senate receded upon several matters of substance, only two of these are of major importance.

As passed by the Senate, S. 3651 authorized the Small Business Administration to charter small business investment companies during the period from the date of enactment through June 30, 1961. The House of Representatives deleted this authority, thus requiring that all small business investment companies be chartered under State law. The majority of the Senate conferees were fearful that the amendment of the House would have made it most difficult, if not impossible, for small-business companies to operate as contemplated by the bill, in some States. The House conferees were persuaded of this view, and the Senate language was accepted with a slight modification. As reported by the conference, small business investment companies must be chartered under State law unless the Small Business Administration determines that such companies cannot be chartered under the laws of a State and operate in accordance with the purpose contemplated by S. 3651. This authority in the Small Business Administration will terminate on June 30, 1961, by which time it is believed that all States will have had an opportunity to enable the formation of small business investment companies with adequate powers to operate in accordance with the Small Business Investment Act of 1958.

The other matter of significance involves the establishment of the SBA revolving fund under which loans will be made to small business investment companies and State and local development companies. The bill as passed by the Senate established a $250 million revolving fund to be made available by Treasury borrowing, of which $50 million could have been borrowed during the first year of operations, and an additional $100 million during the second year of operations. The House amended this portion of the Senate bill to require that the revolving fund be established by direct appropriations. The House conferees were adamant in their support of the House amendment and were unwilling to compromise this question in any way. The majority of the Senate conferees reluctantly agreed to accept the House amendment.

In agreeing to this amendment, it should be clearly understood that the majority of the Banking and Currency Committee are not persuaded that programs of this kind are more properly established by appropriated funds. On the contrary, we believe that Government lending programs represent a form of investment as distinguished from an expenditure and are quite properly financed by borrowing from the Treasury. For the information of the Senate, I will quote a portion of the statement of the managers on the part of the House of Representatives on this subject:

> In view of the fact that it has been argued recently that public debt financing could not be provided in this bill under the Constitution and the rules of the House, the committee of conference wishes to emphasize that in agreeing to the House amendment on this point they do not in any way concede the validity of any such argument. The House Banking and Currency Committee agreed to strike the public debt transaction provisions for entirely different reasons, among them being the fact that the other SBA programs are financed through appropriations. Also, the Bureau of the Budget has already approved a request of $50 million in appropriations for this new program, and the Senate Appropriations Committee is actively considering this request; the conference committee is confident that this sum will be made available. The acceptance of the House amendment should not, therefore, be taken as a precedent by those who would deny the long-recognized jurisdiction of the legislative committees of both Houses to include provisions for public debt transactions in bills they report.

Although I am sure many Members of the Senate are disappointed, as I am disappointed, that it was necessary to recede to the House on this question, the Senate conferees felt that this action was necessary in order to obtain passage of the bill. I am satisfied that S. 3651 is good legislation, and I urge the adoption of the conference report by the Senate.

Mr. SPARKMAN. Mr. President, I am in agreement with the statement which has been made by the distinguished Senator from Pennsylvania [Mr. CLARK], particularly with respect to the change in the conference report, to which he called attention, wherein the conferees accepted the position taken by the House, to the effect that the necessary money for the revolving fund of the Small Business Administration should be by direct appropriation, rather than by loans from the Treasury.

The Senator from Pennsylvania called attention to the fact that there is a statement on the part of the managers of the House to the effect that this is not to be taken as a precedent. It was fully understood by the conferees, in agreeing to accept this proposal, that we were not to hold ourselves bound in future actions. Many of the best programs we have are supported by this method of financing. As a matter of fact, it is a sound method; it is a logical plan.

When appropriations are required, direct appropriations must be made, and those funds are more or less blocked off for the period of time over which they are made.

In the case of financing by borrowing from the Treasury, only the amount of money which actually will be needed will ever be drawn out, and it will be drawn only at the time it is needed. For 10 years or more, Congress has found this method to be a convenient way to finance many of the programs in respect to which the exact amounts to be utilized may not be ascertainable at the time when the appropriations are made. By yielding on this particular point, no one should consider that we are conceding that this method will be the one to be used exclusively in the future.

Incidentally, Mr. President, in connection with the statement by the managers on the part of the House, I desire to point out that one great factor which led us to concede on this matter was that it had already been estimated that $50 million, as I recall, would be needed in order to get this activity underway, during the first year, and that a budget request for that amount had already been submitted to the Congress, and was in the process of being written into the supplemental appropriation bill. In other words, we are certain that the appropriation has budget approval, is before the committee, and at this time is in the process of being acted on by the committee.

Mr. President, I am delighted to see the culmination of this proposed legislation. As I recall, the first bill of this type was introduced several years ago by the distinguished Senator from Wyoming [Mr. O'MAHONEY]. Later, when he left the Senate temporarily, I introduced a similar bill. That must have been approximately 6 years ago. The Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Texas [Mr. JOHNSON], the distinguished majority leader, introduced bills in this field. In fact, a number of bills of this sort were introduced. The subcommittee, under the able chairmanship of the distinguished Senator from Pennsylvania [Mr. CLARK], held hearings and many meetings, and worked out the best solution which could possibly be found.

I suppose that the final form of this measure does not satisfy anyone entirely. But I believe it represents a fairly good conciliation of the divergent views of the many persons who wish to see small business have a source of funds which which to meet its capital requirements.

I hope this measure will work successfully throughout the Nation. In other words, the program, as now finally devised, is one of cooperation between the Federal Government and the several States of the Union. I believe the program should work. I hope it will, and I believe it will.

I desire to express my thanks to the distinguished Senator from Pennsylvania [Mr. CLARK]; to the distinguished Senator from Arkansas [Mr. FULBRIGHT], the chairman of the full committee; to the majority leader, the distinguished senior Senator from Texas [Mr. JOHNSON], who is absent today; to the Senator from Wyoming [Mr. O'MAHONEY]; and to a great many other Senators who have worked very long and very hard in behalf of the enactment of legislation of this type.

This is one of the measures which the Select Committee on Small Business has been advocating for years, in an effort to provide better credit resources for small business.

A few minutes ago I referred to some of the tax provisions for the benefit of small business which are about to be

written into the law. Sometimes it has seemed to the Small Business Committee rather futile and frustrating to work for the enactment of proposed legislation which would be helpful to small business—which, after all, constitutes the economic backbone of the country. But I believe that when this session of Congress has concluded, it will be found that during this session the Congress will have done more for small business than has been done during any other session in which I have served.

As I have said, although I do not believe that these bills measure up fully to the bills I should like to see enacted, or measure up to the ones the committee recommended for enactment, nevertheless I am particularly pleased to see this conference report adopted and the bill sent to the President. I hope it will quickly become law, and will constitute a workable program for the small business interests of the country.

Mr. CLARK. Mr. President, although it is true that I had the honor of being the chairman of the subcommittee which brought this measure to the floor, there is no doubt that if any one Senator is entitled to the major share of the credit for the development of the measure, it is the distinguished junior Senator from Alabama [Mr. SPARKMAN], who certainly has taken the lead in this regard during the 85th Congress, and in fact has worked diligently in this field for many years, long before I came to the Senate.

Mr. President, I ask for the approval of the report.

The PRESIDING OFFICER (Mr. JAVITS in the chair). The question is on agreeing to the conference report.

The report was agreed to.

Mr. CLARK. Mr. President, there will be a large demand, by small business concerns all over the Nation, for copies of the act. Therefore, I ask that the act, as set forth by means of the conference report as agreed to today, be printed.

The PRESIDING OFFICER. Without objection, it is so ordererd.

ADMINISTRATION OF FARM PROGRAMS

Mr. CLARK. Mr. President, I call up Calendar No. 1677, Senate bill 1436, and request its immediate consideration.

The PRESIDING OFFICER. The bill will be read by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1436) to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended, to provide for administration of farm programs by democratically elected farmer committeemen.

The PRESIDING OFFICER. Is there objection to the request for the immediate consideration of the bill?

There being no objection, the Senate proceeeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment.

ORDER FOR ADJOURNMENT UNTIL 11 A. M. TOMORROW

Mr. MANSFIELD. Mr. President, I should like to announce to the Senate that it is the intention of the leadership to have the Senate convene at 11 a. m. tomorrow, instead of at 12 o'clock, as previously ordered.

Therefore, Mr. President, I ask unanimous consent that when the Senate ends its session tonight, it adjourn until 11 a. m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the further information of the Senate, let me say that it is my understanding that this evening there will be some activities in which some of our colleagues are interested.

I hope that action on Senate bill 1436 will be completed by 6:15 this evening. If not, debate on the measure may be continued beyond that hour, but with the understanding that no votes will be taken after that time, and that on tomorrow a vote on the measure will be taken as soon as possible.

PROBLEMS OF INFLATION

Mr. MARTIN of Pennsylvania. Mr. President, a year ago we were all concerned about continued inflation. It was often referred to as our greatest internal threat. The Congress responded with a valiant, if not altogether successful, effort to trim the budget. Later came sputnik, the recession, and a tense Middle East situation. As a result, the question of inflation has been largely forgotten, though rising prices still persist.

In fact, there are those who argue that during this period of recession we should have no concern of past or any potential inflation. To do so, it is charged, is to portray a cynical disregard for the hardships and even suffering endured by the unemployed and their families. With this position I heartily disagree. The current recession is a consequence of the inflationary boom produced by excessive wage, debt, and spending actions of the preceding 3 years. Instead of permitting natural adjustments to correct these excesses, I sense we are setting the stage for their revival.

In my study of the current inflation, the overwhelming evidence points to the wage-cost factor as the most important immediate cause. The increases in wage costs in industry over the past decade have far exceeded the increases in productivity. This fact has been testified to over and over again by witnesses and in economic papers presented to the Finance Committee in its inquiry into the financial condition of the United States.

In this connection, I wish to call attention to the excellent analyses and interpretation of the committee's hearings which have been prepared and delivered on this floor by the junior Senator from Utah [Mr. BENNETT]. In the third of his series, which appears in the CONGRESSIONAL RECORD of July 21, 1958, on pages 13076–80, the Senator from Utah has presented a thorough, fair, and factual analysis which conclusively demonstrates the dominant influence of wage increases in excess of productivity in the rising price level.

In view of his excellent and detailed presentation, I shall only supplement his efforts in a few regards. According to the Bureau of Labor Statistics, unit labor costs for all manufacturing industry increased by 27.7 percent from 1947 to 1956. During the same period, average hourly earnings increased 60 percent. In other words, increased productivity in industry offset only about half the increased labor costs during the period. The remainder had to be covered by higher prices.

Similarly, the index of output per man-hour increased only 1.1 percent from 1955 to 1957, while average hourly earnings—excluding overtime—increased from $1.82 to $2.01, or 10 percent.

Despite all the evidence of this inflationary wage push, union leadership ignores the fact or even denies that it exists. Instead, through their publications and all propoganda devices of their organizations, they continually attack the excessive profits of greedy employers. They point to administered prices, charging these are arbitrarily set, with little regard to costs or ability of purchasers to buy.

Rising prices are often charged to be evidence of monopoly in particular products. In short, every statistical device and emotional appeal is made to union membership and the public to justify their wage and other demands. Thus, they would absolve themselves of any responsibility for increasing prices and, on the other hand, take credit for correcting and adjusting injustices and inequities, which they themselves have in large measure created.

In view of recession conditions, I have reviewed compilations of Bureau of Labor Statistics covering wage increases in 1958. I find that wage increases this year extend the pattern of previous years in spite of the sharp shrinkage in profits in industry. In only those situations involving 1,000 employees or more, there are 3,300,000 persons covered in industry contracts previously made for wage increases to become effective this year, with the bulk of raises from 7 to 10 cents an hour. In addition, 584,000 workers are covered in major situations in the construction industry, with the majority of these increases falling within the range of 15 to over 25 cents per hour. In addition, I note that 78 percent of the workers covered in deferred contract increases in industry also are covered by cost-of-living escalator clauses.

As to new contracts entered into thus far in 1958, a summary is available only for the first quarter. In settlements involving over 1,000 workers, increased wages were granted to 651,000. About

60 percent of these are included in the brackets of 9 to 11 cents, or of 15 to 17 cents per hour. For the second quarter, the long listing of new contracts is not tabulated, but a review indicates a continuation, if not an acceleration, of the results in the first quarter.

I cannot avoid the conclusion that the wage increases of 1958 are no less inflationary than in preceding years, and that wage demands are made regardless of boom or recession, rising prices, or unemployment.

The monetizing of the public debt at an earlier time was referred to as an engine of inflation. The yearly round of wage increases unrelated to productivity increases now deserves that title.

The heart of this problem is the lopsided balance of power between management and labor in modern collective bargaining. It rests on the privileges and immunities of labor organizations provided by law. These have been stretched and distorted, I believe, by administrative and enforcement procedures, as well as by loopholes in the law far beyond the original intention of labor legislation. This is evident by the many proposals, National and State, to modify somehow its operation and effects.

The labor unions have taken full advantage of the legal powers and immunities conferred by law. Under it they have developed a massive and coordinated power to gain their ends. By the nature of things, union leadership is required to obtain increases and benefits on a basis relative to, equal, or better than those obtained by other unions. The annual showing of sizable wage gains and other benefits is a must for successful union operation. If resulting price increases cut down on purchases by consumers, and employment is thereby reduced, and the values of savings shrink through inflation—all there are matters of secondary concern and for others to worry about. The only answer union leadership offers is further wage increases on the one hand and Government spending on the other. Increased purchasing power—that is, more dollars for the same output—is thus made the erroneous solution for our economic problems.

I see nothing to indicate that the present unbalance in the bargaining position between labor and management will not continue indefinitely. Nor do I see any prospect that wage demands will not continue to outrun productivity gains. Not until legislative reform provides the basis or mechanism by which the average level of wage increases is related to the average improvements in productivity will the problem of wage inflation be solved. The only other alternative is the imposition of wage and price controls. When the latter step is taken, we will have completed the life-cycle of our free enterprise competitive economic system. I hope we have the good sense to correct the shortcomings of our present collective bargaining arrangements, before we are pushed down the road either of continuous inflation or of complete State regimentation.

Mr. President, there has been considerable discussion to the effect that the Employment Act of 1946 should be amended to include economic stability as one of its objectives, along with maximum employment and purchasing power. I have no objection to such an amendment. I welcome any move which would focus attention on inflation and the declining value of the dollar.

I had always assumed that it was a primary Constitutional responsibility of Congress to protect the integrity and value of the money and credit of the United States.

I remind the Senate that the price index has increased 48 percent and the value of the dollar has decreased 33 percent since the Employment Act was passed in 1946. And more recently the consumer price index has increased 7.7 percent from March 1956 to May 1958, while the value of the dollar declined 4 cents to its all-time low of 48 cents.

Would such a stated policy in the Employment Act have checked the total growth of total debt from $458 billion at the end of 1946 to $853 billion at the end of 1957?

Would it have been a deterrent to increased public spending from 1955 through 1957, during the inflationary boom period?

Or during this Congressional session, would such a policy amendment have curtailed any of the additional spending which will contribute to the $11 or $12 billion estimated deficit for fiscal 1959?

I am afraid the questions answer themselves—in the negative.

Government actions in spending, lending, guaranteeing mortgages, low cost loans to local governments, easy money terms to facilitate home building and area redevelopment, authorizations for spending out of debt receipts, and many other programs are not designed to halt inflation but to give it another upward thrust.

During the past 2 years the public debt has depreciated in value over $20 billion. Creating new debt in 1959 and succeeding years can only have the effect of extending the decline in our currency.

If we permit this trend to continue, the economic decisions of our people will become more and more directed by fear of inflation and the lack of faith in our currency. A sound economy is not one in which the people seek to hedge against inflation. Our economy can only have sound and continued strength and growth when the people have confidence that the Government will honor its financial obligations in full and protect the integrity of its currency.

IMPORTANCE OF PREVENTION OF DRUNKEN DRIVING

Mr. CASE of South Dakota. Mr. President, I wish to have printed in the RECORD, as a part of my remarks, an article entitled "Keep Your Eye On What You Are Doing," which was written by Mrs. Florence Zimbelman, of the Neighborhood Club, of Custer, South Dakota. Mrs. Zimbelman has vividly pointed out the necessity to require financial responsibility on the part of automobile drivers, and also the need to curb drunken driving.

The article is a most interesting one; and I am moved to bring it to the attention of the Senate, because certainly the time has come when public opinion must find some means of curbing the driving of automobiles by persons who are drunk.

I am moved to call attention to this matter today, Mr. President, because I have just now read, on the front page of the Rapid City Daily Journal of August 2, 1958, of 2 accidents in which 5 persons were killed; and drunken driving is stated to have been the contributing cause.

In one of the articles, the reporter wrote:

> There was evidence the two young Texans had been drinking heavily. * * * Liquor bottles were found in the car, and it later was learned the pair was seen between Deadwood and Spearfish in an intoxicated condition.

In the other article, it was stated:

> The three-man jury also found that Walenta was in an intoxicated condition and that the truck was being driven in a negligent manner.

At something more than 70 miles an hour.

I think this situation warrants national attention, because we are spending a great deal of money to build highways. To permit the driving of cars by persons who are intoxicated tends to undo a great deal of what we are trying to do in providing modern highways.

I ask unanimous consent that the two newspaper accounts on the one front page be printed at this point in the RECORD, and that they be followed by the article by Mrs. Zimbelman, of the Neighborhood Club.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Rapid City (S. Dak.) Daily Journal of August 2, 1958]

FOUR DIE IN ACCIDENT IN NORTH BLACK HILLS—HEADON COLLISION BOOSTS STATE DEATH TOLL TO 131

SPEARFISH.—The West River was credited with four more deaths in South Dakota's mounting highway toll Friday when a head-on crash was fatal for Texas and Wyoming residents.

Authorities identified the victims as Mr. and Mrs. Jerry Carr, both 60, Carlile, Wyo.; Lyle Billington, 21, Hereford, Tex., and Bob Perry, 62, also of Hereford.

Identification of Perry had previously been made erroneously when he was thought to be a brother of Lyle Billington. Saturday morning the bodies were correctly identified by two men who were with a combine crew in the Belle Fourche area and Perry's brother, who flew here from Texas.

The two combine crew members said Billington and Perry had been with them for several weeks, working in harvest fields.

The autos driven by Carr and Lyle Billington collided headon on Highway 85, 7 miles south of Belle Fourche about 1:15 p. m.

TERRIFIC IMPACT

Lawrence County Sheriff Richard McGrath said the two autos struck with a terrific impact. The Billington car was on the wrong side of the highway.

There was evidence the two young Texans had been drinking heavily, McGrath said. Liquor bottles were found in the car and

85TH CONGRESS
2D SESSION

S. 3651

IN THE SENATE OF THE UNITED STATES

AUGUST 7, 1958

Ordered printed as agreed to in conference

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision and purposes of funds.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this Act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 601. Repeal of section 13b of the Federal Reserve Act.
Sec. 602. Fund for management counseling.

TITLE VII—CRIMINAL PENALTIES

STATEMENT OF POLICY

SEC. 102. It is declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however*, That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this Act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the terms "small business investment company" and "company" mean a small business investment company organized as provided in title III, including (except for purposes of section 301 and section 308 (f)) a State-chartered investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small business investment company under section 401 of this Act;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term "small-business concern" shall have the same meaning as in the Small Business Act; and

(6) the term "development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by a Deputy Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this Act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be exercised

by him through the Deputy Administrator appointed hereunder. In the performance of, and with respect to the functions, powers, and duties vested by this Act, the Administrator and the Administration shall (in addition to any authority otherwise vested by this Act) have the functions, powers, and duties set forth in the Small Business Act, and the provisions of sections 13 and 16 of that Act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this Act.

PROVISION AND PURPOSES OF FUNDS

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "$650,000,000" each place it appears and inserting in lieu thereof "$900,000,000";

(2) by inserting before the period at the end of the fourth sentence the following: ", and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958"; and

(3) by inserting after the seventh sentence the following new sentence: "Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958."

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this Act.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided*, That no such company shall be chartered by the Administration under this section in any State unless the Administration determines that investment companies cannot be chartered under the laws of such State and operate in accordance with the purpose of this Act: *Provided further*, That no such company shall be chartered by the Administration under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion approve the articles of incorporation and issue a permit to begin business.

(d) Upon issuance of such permit, the company shall become and be a body corporate, and as such, and in the name designated in its articles shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of thirty years, unless extended as provided in section 308 (f), or unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress, or unless its franchise becomes forfeited by some violation of law or regulation issued hereunder;

(3) to make contracts;

(4) to sue and be sued, complain, and defend in any court of law or equity;

(5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;

(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;

(7) to establish branch offices or agencies subject to the approval of the Administration;

(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;

(9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;

(10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and

(11) to exercise the other powers set forth in this Act and such incidental powers as may reasonably be necessary to carry on the business for which the company is established.

(e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stock of the company.

CAPITAL STOCK AND SUBORDINATED DEBENTURES

Sec. 302. (a) Each company authorized to operate under this Act shall have a paid-in capital and surplus equal to at least $300,000. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to not more than $150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deemed a part of the capital and surplus of such companies for purposes of this section and sections 303 (b) and 306 of this Act.

(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

BORROWING POWER

SEC. 303. (a) Each small business investment company shall have authority to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and subject to such limitations and regulations as the Administration may prescribe.

(b) To encourage the formation and growth of small business investment companies, the Administration is authorized to lend funds to such companies through the purchase of their obligations which shall bear interest at such rate, and contain such other terms, as the Administration may fix. The total amount of obligations purchased and outstanding at any one time by the Administration under this subsection in any one company shall not exceed 50 percent of the paid-in capital and surplus of such company.

PROVISIONS OF EQUITY CAPITAL FOR SMALL-BUSINESS CONCERNS

SEC. 304. (a) It shall be a primary function of each small business investment company to provide a source of needed equity capital for small-business concerns in the manner and subject to the conditions described in this section.

(b) Capital shall be provided by a company to a small-business concern under this section only through the purchase of debenture bonds (of such concern) which shall—

(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration;

(2) be callable on any interest payment date, upon three months' notice, at par plus accrued interest; and

(3) be convertible at the option of the company, or a holder in due course, up to and including the effective date of any call by the issuer, into stock of the small-business concern at the sound book value of such stock determined at the time of the issuance of the debentures.

(c) Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator.

LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

SEC. 305. (a) Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.

(b) Loans made under this section may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis. In agreements to participate in loans on a deferred basis under this subsection, the

participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(c) The maximum rate of interest for the company's share of any loan made under this section shall be determined by the Administration.

(d) Any loan made under this section shall have a maturity not exceeding twenty years.

(e) Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

(f) Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding ten years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

AGGREGATE LIMITATIONS

SEC. 306. Without the approval of the Administration, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this Act for any single enterprise shall not exceed 20 percent of the combined capital and surplus of such small business investment company authorized by this Act.

EXEMPTIONS

SEC. 307. (a) Section 3 of the Securities Act of 1933, as amended (15 U. S. C. 77c), is hereby amended by inserting at the end thereof the following new subsection (c):

"(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

(b) Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd) is hereby amended by adding the following subsection (e):

"(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

(c) Section 18 of the Investment Company Act of 1940 (15 U. S. C. 80a–18) is amended by adding at the end thereof the following:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958."

MISCELLANEOUS

SEC. 308. (a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other financial institutions on a fee basis. Any small business investment company may receive fees for services rendered to banks or other financial institutions.

(b) Each small business investment company may make use, wherever practicable, of the advisory services of the Federal Reserve

System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any company organized under this Act. Such companies may invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States.

(c) The Administration is authorized to prescribe regulations governing the operations of small business investment companies, and to carry out the provisions of this Act, in accordance with the purposes of this Act. Each small business investment company shall be subject to examinations made by direction of the Administration by examiners selected or approved by the Administration, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements.

(d) Should any small business investment company violate or fail to comply with any of the provisions of this Act or of regulations prescribed hereunder, all of its rights, privileges, and franchises derived therefrom may thereby be forfeited. Before any such company shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of this Act shall be determined and adjudged by a court of the United States of competent jurisdiction in a suit brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of such company is located. Any such suit shall be brought by the United States at the instance of the Administration or the Attorney General.

(e) Whenever in the judgment of the Administration any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or of any regulation thereunder, the Administration may make application to the proper district court of the United States, or a United States court of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, or regulation, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

(f) Any small business investment company may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than thirty years, and upon approval of the Administration, as provided in section 301 hereof, such company shall have its corporate existence extended for such approved period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an Act of Congress, or unless its franchise becomes forfeited as herein provided.

(g) Nothing in this Act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this Act.

APPROVING STATE CHARTERED COMPANIES FOR OPERATIONS UNDER THIS ACT

SEC. 309. Any investment company chartered under the laws of any State expressly for the purpose of operating under this Act may with the approval of the Administrator be permitted to operate under the provisions of this Act. Such approval shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

SEC. 401. (a) Prior to July 1, 1961, any investment company or any State development company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such company, with the approval of the Administration, be converted into a small business investment company under this Act; except that nothing contained herein shall be construed to supersede the laws of any State.

(b) In such case the articles of association and organization certificate may be executed by a majority of the directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment company. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors, regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.

(c) When the Administration has given to such company a certificate that the provisions of this Act have been complied with, such company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this Act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or

in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however*, That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $250,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding ten years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

(6) No loan shall be made under this section to any local development company after June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

SEC. 601. Effective one year after the date of enactment of this Act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under that section.

FUND FOR MANAGEMENT COUNSELING

SEC. 602. (a) Within sixty days after the enactment of this Act, each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b or out of any agreement thereunder.

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7 (d) of the Small Business Act. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act shall be covered into the Treasury as miscellaneous receipts.

(c) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"(d) The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, com-

merce, or agriculture for studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of section 8 (b) (1) by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958."

TITLE VII—CRIMINAL PENALTIES

SEC. 701. (a) The first paragraph of section 217 of title 18, United States Code, is amended by inserting after "farm credit examiner," the following: "or of any small business investment company,".

(b) Section 218 of such title is amended by inserting after "National Agricultural Credit Corporations," the following: "or an examiner of small business investment companies,".

SEC. 702. (a) The first paragraph of section 221 of title 18, United States Code, is amended by inserting after "United States," the following: "or a small business investment company,".

(b) The second paragraph of such section 221 is amended by inserting after "Congress," the following: "or any small business investment company,".

(c) The heading of such section 221 is amended by striking out "farm loan or land bank" and inserting in lieu thereof "farm loan, land bank, or small business".

(d) The table of sections for chapter 11 of such title 18 is amended by striking out "farm loan or land bank" in the reference to section 221 and inserting in lieu thereof "farm loan, land bank, or small business".

SEC. 703. Section 657 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,".

SEC. 704. Section 1006 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,".

SEC. 705. Section 1014 of title 18, United States Code, is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company,".

85TH CONGRESS
2D SESSION

S. 3651

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

AUGUST 7, 1958

Ordered printed as agreed to in conference

Public Law 85-699
85th Congress, S. 3651
August 21, 1958

AN ACT

72 Stat. 689.

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Investment Act of 1958.

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Establishment of Small Business Investment Division.
Sec. 202. Provision and purposes of funds.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. Organization of small business investment companies.
Sec. 302. Capital stock and subordinated debentures.
Sec. 303. Borrowing power.
Sec. 304. Provision of equity capital for small-business concerns.
Sec. 305. Long-term loans to small-business concerns.
Sec. 306. Aggregate limitations.
Sec. 307. Exemptions.
Sec. 308. Miscellaneous.
Sec. 309. Approving State chartered companies for operations under this Act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

Sec. 601. Repeal of section 13b of the Federal Reserve Act.
Sec. 602. Fund for management counseling.

TITLE VII—CRIMINAL PENALTIES

STATEMENT OF POLICY

SEC. 102. It is declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy

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shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this Act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the terms "small business investment company" and "company" mean a small business investment company organized as provided in title III, including (except for purposes of section 301 and section 308 (f)) a State-chartered investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small business investment company under section 401 of this Act;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term "small-business concern" shall have the same meaning as in the Small Business Act; and

(6) the term "development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by a Deputy Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this Act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be exercised by him through the Deputy Administrator appointed hereunder. In the performance of, and with respect to the functions, powers, and duties vested by this Act, the Administrator and the Administration shall (in addition to any authority otherwise vested by this Act) have the functions, powers, and duties set forth in the Small Business Act, and the provisions of sections 13 and 16 of that Act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this Act.

Ante, p. 394, 395.

PROVISION AND PURPOSES OF FUNDS

Ante, p. 385.

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "$650,000,000" each place it appears and inserting in lieu thereof "$900,000,000";

(2) by inserting before the period at the end of the fourth sentence the following: ", and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958"; and

(3) by inserting after the seventh sentence the following new sentence: "Not to exceed an aggregate of $250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958."

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this Act. Appropriation.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided*, That no such company shall be chartered by the Administration under this section in any State unless the Administration determines that investment companies cannot be chartered under the laws of such State and operate in accordance with the purpose of this Act: *Provided further*, That no such company shall be chartered by the Administration under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion approve the articles of incorporation and issue a permit to begin business.

(d) Upon issuance of such permit, the company shall become and be a body corporate, and as such, and in the name designated in its articles shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of thirty years, unless extended as provided in section 308 (f), or unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress, or unless its franchise becomes forfeited by some violation of law or regulation issued hereunder;

(3) to make contracts;

(4) to sue and be sued, complain, and defend in any court of law or equity;

(5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;

(6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;

(7) to establish branch offices or agencies subject to the approval of the Administration;

(8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;

(9) to act as depository or fiscal agent of the United Sta when so designated by the Secretary of the Treasury;

(10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and

(11) to exercise the other powers set forth in this Act and such incidental powers as may reasonably be necessary to carry on the business for which the company is established.

(e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stock of the company.

CAPITAL STOCK AND SUBORDINATED DEBENTURES

Sec. 302. (a) Each company authorized to operate under this Act shall have a paid-in capital and surplus equal to at least $300,000. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to not more than $150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deem a part of the capital and surplus of such companies for purposes this section and sections 303 (b) and 306 of this Act.

(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

BORROWING POWER

Sec. 303. (a) Each small business investment company shall have authority to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and

subject to such limitations and regulations as the Administration may prescribe.

(b) To encourage the formation and growth of small business investment companies, the Administration is authorized to lend funds to such companies through the purchase of their obligations which shall bear interest at such rate, and contain such other terms, as the Administration may fix. The total amount of obligations purchased and outstanding at any one time by the Administration under this subsection in any one company shall not exceed 50 percent of the paid-in capital and surplus of such company.

PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS CONCERNS

SEC. 304. (a) It shall be a primary function of each small business investment company to provide a source of needed equity capital for small-business concerns in the manner and subject to the conditions described in this section.

(b) Capital shall be provided by a company to a small-business concern under this section only through the purchase of debenture bonds (of such concern) which shall—

(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration;

(2) be callable on any interest payment date, upon three months' notice, at par plus accrued interest; and

(3) be convertible at the option of the company, or a holder in due course, up to and including the effective date of any call by the issuer, into stock of the small-business concern at the sound book value of such stock determined at the time of the issuance of the debentures.

(c) Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator.

LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

SEC. 305. (a) Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.

(b) Loans made under this section may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis. In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(c) The maximum rate of interest for the company's share of any

loan made under this section shall be determined by the Administration.

(d) Any loan made under this section shall have a maturity not exceeding twenty years.

(e) Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

(f) Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding ten years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

AGGREGATE LIMITATIONS

SEC. 306. Without the approval of the Administration, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this Act for any single enterprise shall not exceed 20 percent of the combined capital and surplus of such small business investment company authorized by this Act.

EXEMPTIONS

SEC. 307. (a) Section 3 of the Securities Act of 1933, as amended (15 U. S. C. 77c), is hereby amended by inserting at the end thereof the following new subsection (c):

48 Stat. 75.

"(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

(b) Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd) is hereby amended by adding the following subsection (e):

53 Stat. 1153.

"(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

(c) Section 18 of the Investment Company Act of 1940 (15 U. S. C. 80a–18) is amended by adding at the end thereof the following:

54 Stat. 817.

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958."

MISCELLANEOUS

Fees.

SEC. 308. (a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other financial institutions on a fee basis. Any small business investment company may receive fees for services rendered to banks or other financial institutions.

(b) Each small business investment company may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any company organized under this Act. Such companies may invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States. Advisory services.

(c) The Administration is authorized to prescribe regulations governing the operations of small business investment companies, and to carry out the provisions of this Act, in accordance with the purposes of this Act. Each small business investment company shall be subject to examinations made by direction of the Administration by examiners selected or approved by the Administration, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements. Examinations, etc. 54 Stat. 789. 15 USC 80a-51.

(d) Should any small business investment company violate or fail to comply with any of the provisions of this Act or of regulations prescribed hereunder, all of its rights, privileges, and franchises derived therefrom may thereby be forfeited. Before any such company shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of this Act shall be determined and adjudged by a court of the United States of competent jurisdiction in a suit brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of such company is located. Any such suit shall be brought by the United States at the instance of the Administration or the Attorney General. Noncompliance.

(e) Whenever in the judgment of the Administration any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or of any regulation thereunder, the Administration may make application to the proper district court of the United States, or a United States court of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, or regulation, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond. Restraining orders.

(f) Any small business investment company may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than thirty years, and upon approval of the Administration, as provided in section 301 hereof, such company shall have its corporate existence extended for such approved period unless sooner dissolved by the act Corporate extension.

of the shareholders owning two-thirds of its stock, or by an Act of Congress, or unless its franchise becomes forfeited as herein provided.

(g) Nothing in this Act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this Act.

APPROVING STATE CHARTERED COMPANIES FOR OPERATIONS UNDER THIS ACT

SEC. 309. Any investment company chartered under the laws of any State expressly for the purpose of operating under this Act may with the approval of the Administrator be permitted to operate under the provisions of this Act. Such approval shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

SEC. 401. (a) Prior to July 1, 1961, any investment company or any State development company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such company, with the approval of the Administration, be converted into a small business investment company under this Act; except that nothing contained herein shall be construed to supersede the laws of any State.

(b) In such case the articles of association and organization certificate may be executed by a majority of the directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment company. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors, regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.

(c) When the Administration has given to such company a certificate that the provisions of this Act have been complied with, such company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this Act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however*, That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $250,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding ten years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

(6) No loan shall be made under this section to any local development company after June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

SEC. 601. Effective one year after the date of enactment of this Act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under that section. 48 Stat. 1105.

72 Stat. 698.

FUND FOR MANAGEMENT COUNSELING

SEC. 602. (a) Within sixty days after the enactment of this Act, each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b or out of any agreement thereunder.

48 Stat. 1105.
12 USC 352a.

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7 (d) of the Small Business Act. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act shall be covered into the Treasury as miscellaneous receipts.

Infra.

12 USC 352a.

(c) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"(d) The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agriculture for studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of section 8 (b) (1) by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of $40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958."

TITLE VII—CRIMINAL PENALTIES

62 Stat. 694.

SEC. 701. (a) The first paragraph of section 217 of title 18, United States Code, is amended by inserting after "farm credit examiner," the following: "or of any small business investment company,".

62 Stat. 695.

(b) Section 218 of such title is amended by inserting after "National Agricultural Credit Corporations," the following: "or an examiner of small business investment companies,".

62 Stat. 695.

SEC. 702. (a) The first paragraph of section 221 of title 18, United States Code, is amended by inserting after "United States," the following: "or a small business investment company,".

(b) The second paragraph of such section 221 is amended by inserting after "Congress," the following: "or any small business investment company,".

(c) The heading of such section 221 is amended by striking out "farm loan or land bank" and inserting in lieu thereof "farm loan, land bank, or small business".

18 USC prec. 201.

(d) The table of sections for chapter 11 of such title 18 is amended by striking out "farm loan or land bank" in the reference to section 221 and inserting in lieu thereof "farm loan, land bank, or small business".

SEC. 703. Section 657 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,". 62 Stat. 729.

SEC. 704. Section 1006 of title 18, United States Code, is amended by inserting after "Federal Savings and Loan Insurance Corporation," the following: "or any small business investment company,". 62 Stat. 750. 72 Stat. 698. 72 Stat. 699.

SEC. 705. Section 1014 of title 18, United States Code, is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company,". 62 Stat. 752.

Approved August 21, 1958.